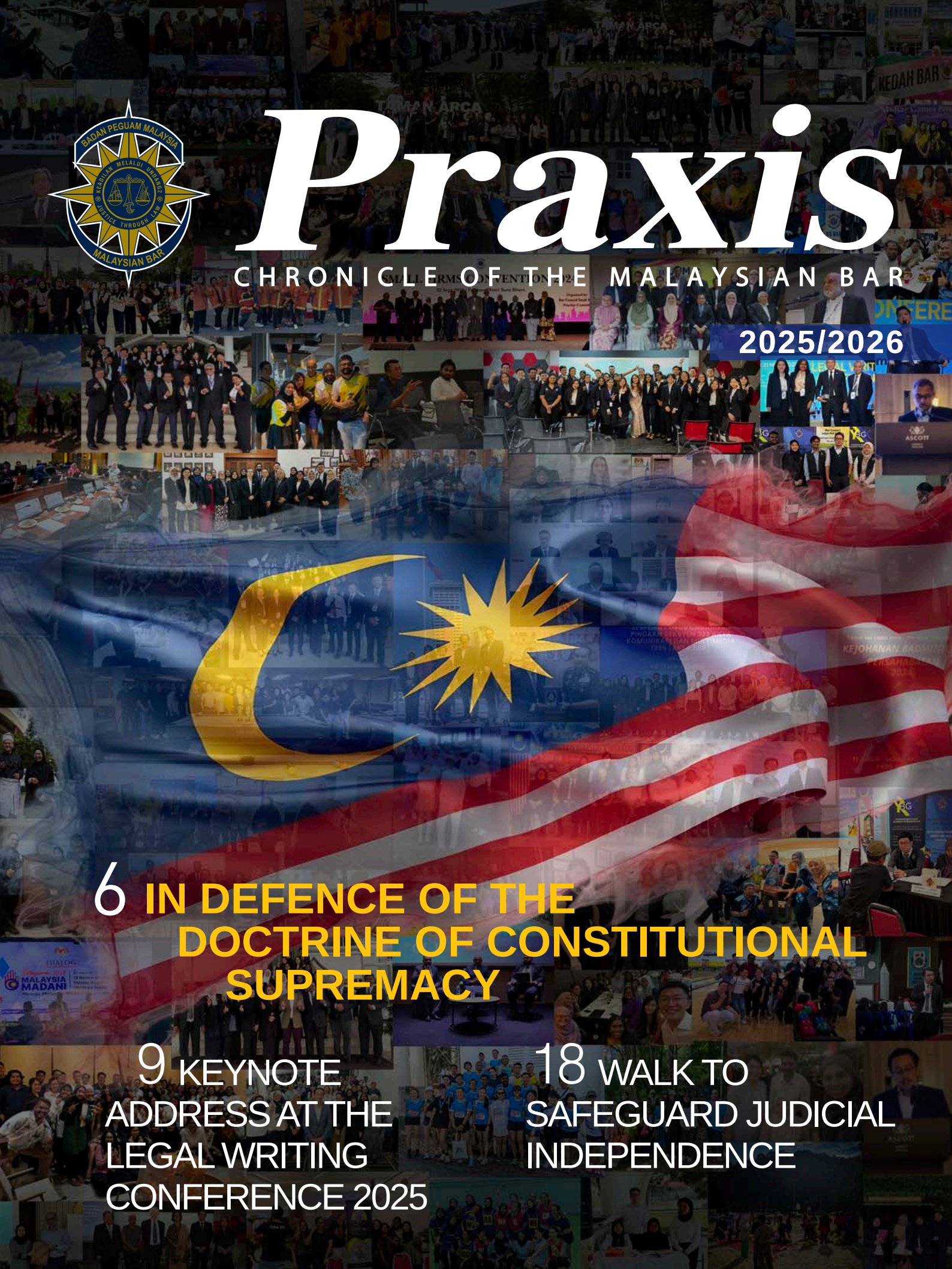


Praxis

CHRONICLE OF THE MALAYSIAN BAR

2025/2026

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The Malaysian Bar welcomes letters, articles, views and news (including photographs) for possible inclusion in *Praxis*. However, the Malaysian Bar reserves the right not to publish or to edit those published for content, clarity, style and space considerations. Contributions and enquiries may be directed to praxis@malaysianbar.org.my.

Editor's Note



Gregory Das
Chairperson,
Publications Committee

The Publications Committee is pleased to present to you this second issue of the revived *Praxis* magazine, recognised as the chronicle of the Malaysian Bar.

This edition contains articles on a wide range of subjects that we hope will be of interest and utility to our readers.

This issue goes to press in an age of rapid change and shifting norms and principles. The editorial committee therefore thought it imperative to include as the featured piece in this edition an article by the recently retired former Chief Justice of Malaysia, Tun Tengku Maimun binti Tuan Mat, on the basic structure doctrine, which Tun appositely termed as the *"Doctrine of Constitutional Supremacy (DCS)"*. The principle recognises there to be basic features of the Federal Constitution that are beyond alteration. In characteristic lucidity, Tun argues that the principle is by no means foreign to this jurisdiction and that there is instead "not only constitutional support but, a constitutional basis for its existence here in Malaysia in the form of the DCS". The article significantly concludes that

> *"As society changes and political climates shift, the temptation to bypass constitutional checks will always exist. It is precisely in these moments that we must remember that the Constitution (with its basic features) was designed to protect the long-term identity of the nation from short-term exigencies".*

It is sincerely hoped that those in power take this reminder to heart in the discharge of their respective administrative functions.

Tun Tengku Maimun's article is well-timed for a further reason. It comes a few months before the flagship event of the Malaysian Bar, namely; the International Malaysia Law Conference 2026; which will be held at the Malaysia International Trade and Exhibition Centre in Kuala Lumpur from 27 to 30 October 2026. The theme of the Conference is 'Maintaining Core Principles in a Time of Change', which proposes to address principles such as the basic structure doctrine in examining the role of the law in preserving first principles amid societal change, technological advancements and the evolving demands in legal practice. Members of the Bar are highly encouraged to attend the Conference, which is expected to be an event that is not to be missed.

An event that proved to be unmissable last year was the second Legal Writing Conference jointly held by the Publications Committee and the Continuing Professional Development Department of the Malaysian Bar, in conjunction with Brickfields Asia College, on 20 and 21 November. The Conference was privileged to have heard from the President of the Court of Appeal, Justice Dato' Seri Abu Bakar bin Jais, who delivered the Keynote Address at the event, which we have carried as another featured piece in this issue. His Lordship astutely placed emphasis on the importance of writing with simplicity and brevity and noted in particular that

> *"An advocate who can distill the complexities and write them into a coherent and accessible narrative immediately earns credibility with the Bench, because it signals a deep mastery of the subject matter".*

A focal event last year was the Malaysian Bar's 'Walk to Safeguard Judicial Independence' in Putrajaya. The walk drew the attendance of close to 1,500 participants and culminated in the hand over of a memorandum to the Prime Minister's Office to address issues of then vacancies in judicial offices and matters related to judicial independence. An article covering the Walk is included in this edition.

With the now ubiquitous influence of artificial intelligence, it was inevitable that this issue would include coverage on the effects of these advances in technology on the law. The editorial committee is therefore pleased to include a closely-reasoned article in the employment law section by former Chairman of the Industrial Court, Ms Rajeswari Karupiah, that considers whether advances in technology in the workplace could constitute valid grounds for the retrenchment of employees. We are equally pleased to include an article on the law of intellectual property on the subject of the increased usage of generative artificial intelligence which the writers describe as posing challenges to

> *"the core principle of traditional copyright framework where the legal protection is premised on original works produced by human authors".*

This issue also carries an illuminating piece on the subject of construction law that examines the law of liability of the principal of a non-paying party under the Construction Industry Payment and Adjudication Act 2012.

We have also included an article on criminal procedure, with a focus on the recently concluded Heidy Quah litigation.

Another piece carried is a ruminative article by a senior corporate lawyer on the importance of company law not only to legal practitioners *en masse*, but society at large.

Under the Case Commentary segment, we feature a spirited commentary on the widely reported decision of the Federal Court in *Amir Hariri bin Abd Hadi v Public Prosecutor*, which ruled as violative of the constitutional right to freedom of speech and assembly section 9(5) of the Peaceful Assembly Act 2012, which imposed criminal sanctions on one's failure to comply with notice requirements prior to holding an assembly.

Our readership would be pleased to note that the magazine continues to feature a Lifestyle Section. Contained therein is a timely piece on the subject of 'burnout' amongst lawyers, which continues to be a topic of widespread interest. Also included in the section is an article by a senior Member of the Bar on his enriching involvement in long-distance running events for various consequential causes.

It is hoped that this edition of the magazine is well received by Members and we look forward to your contribution and support.

I record my appreciation to the members and officers of the Publications Committee for their efforts in the publication of this edition of *Praxis*.



Mohamad Ezri b Abdul Wahab

President, Malaysian Bar

> "Lucid, well-ordered writing can contribute immeasurably to a lawyer's success.

These words by the late Hon Ruth Bader Ginsburg[1] resonate profoundly with all of us who have devoted our lives to the practice of law. Legal writing is not merely a vehicle for communication; it is the very instrument through which clarity, reasoning, and persuasion are expressed. It shapes how arguments are presented, how principles are interpreted, and ultimately, how justice is delivered. In a profession where every word matters, the ability to write with precision, coherence, and lucidity is not optional; it is essential. For lawyers, meticulous legal writing is a reflection of analytical thought, a marker of professionalism, and a tool for upholding the integrity of the law.

It brings me great joy to see *Praxis* flourishing following its revival. This publication has always represented a cornerstone of the Malaysian Bar's commitment to fostering professional excellence and continuous learning. *Praxis* provides an invaluable platform for Members to engage with contemporary legal developments, share insights, and exchange ideas in a manner that encourages critical thinking and rigorous analysis. More than that, it cultivates a culture where the art of legal writing is celebrated, honed, and transmitted to successive generations of lawyers.

The revival and continued success of *Praxis* is a testament to the dedication, vision, and hard work of the Bar Council Publications Committee, under the exemplary leadership of Gregory Das. Their tireless commitment has ensured that *Praxis* remains not only relevant but also a publication of the highest quality. The Committee's efforts to uphold standards of clarity, analytical depth, and professional excellence in every edition deserve the highest praise. It is through their diligence that *Praxis* continues to inspire lawyers to refine their craft, appreciate the nuances of legal expression, and embrace the discipline that good legal writing demands.

As my term as President draws to a close, it is with both pride and a touch of nostalgia that I pen this message. This will be the last message I write in my capacity as President, yet my connection with *Praxis* and its mission will endure. I sincerely hope to contribute a piece to the next edition, continuing to engage with fellow Members in the shared pursuit of legal scholarship and excellence. The lessons we derive from legal writing, clarity, structure, precision, and persuasion, extend far beyond the page; they inform how we reason, how we advocate, and ultimately how we uphold justice in our daily practice.

Legal writing is more than a skill; it is a reflection of our professional identity. It is the measure of our capacity to think critically, argue cogently, and communicate effectively. It bridges the gap between complex legal concepts and practical application, between abstract principles and tangible outcomes. In celebrating *Praxis*, we are celebrating the very essence of what it means to be a thoughtful, competent, and conscientious lawyer.

I am confident that *Praxis* will continue to flourish as a beacon of knowledge, rigour, and professional excellence. May it inspire lawyers, young and seasoned alike, to embrace the discipline of legal writing, to cultivate clarity in thought and expression, and to contribute meaningfully to the advancement of our profession. As we turn the page on this chapter of my presidency, I look forward to the continued growth of *Praxis* and the enduring impact it will have on the legal community in Malaysia.

1 Smith, D. U., & McGinty, V. T. (2024, December). "Clarity in legal writing: Why it matters and how to achieve it". Advocate Magazine. https://www.advocatemagazine.com/article/2024-december/clarity-in-legal-writing

IN DEFENCE of the DOCTRINE of CONSTITUTIONAL SUPREMACY

Written by
Tun Tengku Maimun bt Tuan Mat
Former Chief Justice of Malaysia



Tun Tengku Maimun bt Tuan Mat speaking at the Opening Ceremony of the 37th LAWASIA Conference (13 to 15 October 2024) in Kuala Lumpur. She was speaking in her capacity as Chief Justice of Malaysia, 13 October 2024.

In recent years, much has resurfaced regarding the "Basic Structure Doctrine" ("BSD"). Critics often label it a foreign import — a judicial invention borrowed from the Indian Supreme Court's decision in *Kesavananda Bharati v State of Kerala AIR* [1973] SC 1461. The argument is that the BSD has no place here in Malaysia.

Such a view overlooks the unique textual foundation of the Malaysian Constitution. In our jurisdiction, what is often called the BSD is more accurately described as the Doctrine of Constitutional Supremacy ("DCS").

My basic stance is that while the BSD itself is in name correctly described as an invention of Indian jurisprudence, textually there is not only constitutional support but, a constitutional basis for its existence here in Malaysia in the form of the DCS.

The core of my argument has thus always been and still is that while the Indian Courts might have "judicially invented" their BSD, the Malaysian Courts instead judicially "recognised / re-discovered / reclaimed" the implicit and inbuilt safeguard that is the DSC in the Constitution — the supreme law of the Federation remains exactly that: supreme. Advocating the DSC is not therefore encouraging judicial overreach but a call to protect the very framework that allows our democracy to function.

The Textual Foundation: Article 4(1) and the Myth of Invention

The starting point of any constitutional analysis in Malaysia must be Article 4(1), which declares: "This Constitution is the supreme law of the Federation and any law passed after Merdeka Day which is inconsistent with this Constitution shall, to the extent of the inconsistency, be void."

This single sentence fundamentally distinguishes our legal system from the British model of Parliamentary Sovereignty. In the United Kingdom, Parliament can, in theory, legislate on any matter and even alter the foundational rules of the State. In Malaysia, Parliament is a creature of the Constitution; it derives its very existence, its powers, and its limitations from the document itself.

The DCS is therefore not a judicial creation; it is a judicial recognition of a textual reality. When the courts protect the "basic structure", they are simply giving effect to the mandate of Article 4(1).

What it means is that the Federal Constitution has its basic features that cannot be altered such that it would deface or destroy the very pillars that form the State that is Malaysia.

Some examples that I postulate are (non-exhaustively): the nine monarchies; the establishment of the role of the Yang di-Pertuan Agong, the status of Islam as the official religion of the Federation; the branches of Government including the judicial power of the Federation; the status of the National Language; and the special position of the Malays and the aboriginal peoples of Sabah and Sarawak and the special safeguards afforded to those two territories in the Federation.

The Formula of Amendment: The Limits of Article 159(1)

A common rebuttal to the DCS is that Article 159(1) provides Parliament with the power to amend the Constitution, and that this power is absolute provided the procedural requirements (such as a two-thirds majority) are met. However, as I have observed in the Federal Court's jurisprudence, there is a vital distinction between an "amendment" and an "abrogation".

The power to amend is the power to improve, alter, or adapt the Constitution within its existing framework to meet the changing needs of society. It is not a licence to dismantle the pillars that hold the structure aloft.

This is where the "amendment formula" becomes critical: an Act to amend the Federal Constitution is, at its core, an Act of Parliament. Since Article 4(1) dictates that any law inconsistent with the Constitution is void, it follows that an amendment which strikes at the "basic structure" or the "constitutional identity" of the nation is itself inconsistent with the supreme law.

Parliament cannot lift itself by its own bootstraps to a position above the Constitution. It cannot use a power granted by the Constitution to destroy the Constitution. If we accept the premise that Parliament's power to amend is limitless, we accept that Parliament is superior to the Constitution. This would render Article 4(1) a dead letter.

Judicial Power: The Inalienable Anchor

The necessity of this doctrine is perhaps most visible in the protection and preservation of judicial Power. In *Zaidi bin Kanapiah v ASP Khairul Fairoz bin Rodzuan* [2021] 3 MLJ 759, the Federal Court was confronted with a legislation that attempted to turn judges into "rubberstamps" for executive decisions, specifically by legislatively compelling Magistrates to robotically issue remand orders without any independent judicial discretion.

Those minority of judges in that case who supported the application of the DCS held that the judicial power of the Federation, vested in the courts by Article 121(1), is a basic feature of the Constitution. It requires the Judiciary to act as the final arbiter of law and the ultimate check on the other branches of government.

This power cannot be taken away or severely curtailed, even by a constitutional amendment. The 1988 amendment to Article 121(1) — which sought to suggest that judicial power is only such power as "may be conferred by federal law" — must be read down to prevent its present wording from derogating from this fundamental judicial power.



Tun Tengku Maimun, as Chief Justice of Malaysia, delivering her speech at the Opening of the Legal Year 2025, at Putrajaya, 8 January 2025. She is flanked by Tan Sri Datuk Amar Abang Iskandar bin Abang Hashim, then-President of the Court of Appeal, on her left and Dato' Sri Hasnah binti Dato' Mohammed Hashim, then-Chief Judge of Malaya on her right.

The rule of law would become a hollow phrase if judicial power were at the mercy of federal law and if the courts were stripped of their inherent power to review the legality of State action. This is about performing a judicial duty to protect and preserve the right of every Malaysian citizen, among others, to have their grievances heard by an independent and impartial tribunal.

Protecting Fundamental Liberties: The Lessons of *Ketheeswaran*

This principle was further entrenched in *Ketheeswaran al Kanagaratnam v Public Prosecutor* [2024] 1 MLJ 851. In that decision, the Court reaffirmed that the judicial duty is to ensure that fundamental liberties, such as the right to a fair trial under Article 5(1) and equality before the law under Article 8, are not rendered "nugatory" by restrictive legislation or ouster clauses.

Ouster clauses, which attempt to block the court's jurisdiction to review executive or legislative acts, are inherently problematic within a system of constitutional supremacy. If the "basic structure doctrine" did not exist, Parliament could theoretically pass a constitutional amendment stating that "no act of the executive shall be questioned in any court".

Such a move would effectively end the protection of human rights in Malaysia and the DCS, enforced by the Courts, is the only shield against such tyranny.

Beyond India: A Locally Grounded Evolution

Critics who dismiss the doctrine as an "Indian import" fail to engage with the contemporary state of Malaysian constitutionalism. As scholars Yvonne Tew and Zheng Hong See (2025) have most recently noted, the Malaysian BSD has evolved into its own distinct form. While we may acknowledge the intellectual roots of the doctrine elsewhere, its application in Malaysia is driven by our own historical context — including the 1988 Judicial Crisis and the subsequent need to restore the constitutional balance.

The DCS therefore protects specific Malaysian "basic features", such as the ones I described earlier from being changed, even by a simple two-thirds majority or even a unanimous vote for that matter. With this, Malaysia cannot be turned into something other than what it was originally intended to be, to the detriment of its peoples.

Addressing the "Democratic Deficit"

The most frequent charge against the doctrine is that it is undemocratic because it allows unelected judges to thwart the will of the people's elected representatives. This argument misinterprets the nature of a constitutional democracy. In such a system, the "will of the people" is expressed most definitively in the Constitution itself. When judges strike down an unconstitutional law or amendment, they are not opposing the people; they are upholding the people's "higher will" as enshrined in the supreme law.

The doctrine actually protects democracy from its own potential excesses. It prevents a temporary political majority from altering the rules of the game so fundamentally that future minorities lose their protection or the democratic process itself is subverted. By preserving the "basic structure", the judiciary ensures that the democratic framework remains intact for future generations.

In simpler terms, there is no "democratic deficit". In fact, Article 4(1) and the DCS ingrained within it protects minorities from oppression by the majority — which is a danger in any democracy where the notion is simply that "democracy" means majority rule.

Conclusion: An Act of Judicial Fidelity

The DCS is not an exercise in judicial activism, nor is it a challenge to the authority of Parliament. Rather, it is an act of judicial fidelity to the oath judges take to "preserve, protect and defend the Constitution." By recognising that certain core features are beyond the reach of ordinary legislative interference, the Court ensures that the Federal Constitution remains a stable, enduring anchor for the nation.

As society changes and political climates shift, the temptation to bypass constitutional checks will always exist. It is precisely in these moments that we must remember that the Constitution (with its basic features) was designed to protect the long-term identity of the nation from short-term exigencies.

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KEYNOTE ADDRESS of the LEGAL WRITING CONFERENCE 2025*

By The Right Honourable *Justice*
Dato' Abu Bakar Jais
President of the Court of Appeal, Malaysia



Salutation

YA Dato' Azizul Azmi bin Adnan, Judge of the Court of Appeal;
YBhg. Dato' Haji Mohamad Ezri bin Haji Abdul Wahab, President of the Malaysian Bar;
YBhg. Tan Sri Datuk Zainun Binti Ali, former Federal Court Judge;
Members of the Bar, Pupil in chambers, law students;
Ladies & gentlemen.

Assalamualaikum WBT and a very good afternoon.

* Delivered at the Legal Writing Conference 2025 jointly organised by the Bar Council Publications Committee and Brickfields Asia College on 20 and 21 November 2025.

INTRODUCTION

[1] Thank you for the kind invitation to deliver this keynote address.

[2] I would like to commend the Organising Committee for their tremendous effort in making this Legal Writing Conference possible. My heartfelt appreciation also goes to our distinguished panellists and legal writing trainers for so generously giving their time despite their demanding schedules. Your commitment to sharing knowledge and nurturing the next generation of legal minds is truly commendable.

ADVOCACY IS A PERFORMANCE

[3] The Inns of Court College of Advocacy describes oral advocacy as a primary performance skill. It requires the advocate to address the court persuasively, concisely and in a clear and well-organised manner.[1]

[4] In court, the lawyer is the performer, and advocacy is the performance: every submission, gesture, and pause matters. A well-crafted written submission supports the smooth delivery of oral advocacy. Written words provide the sketch, but oral advocacy adds the colours and depth, allowing the Bench to visualise the full picture of the case.

THE ROLE OF LEGAL WRITING IN LITIGATION

[5] I will now highlight the role of legal writing at different stages of litigation, namel-y, the interlocutory application stage, post-trial submissions, and appellate submissions.

[6] To all young practitioners and aspiring lawyers who have yet to conduct your own case, here is something that I would like you to remember: your legal writing skills are one of the most important tools that you have as an advocate. Many times, they are your first and sometimes your only chance to convince the judge, even before you step into the courtroom.

1 The Inns of Court College of Advocacy, "What is Advocacy?", https://www.icca.ac.uk/post-qualification-training/cpd/advocacy-training/what-is-advocacy/, accessed 1 November 2025. The Inns of Court College of Advocacy (ICCA) was established by the Council of the Inns of Court (COIC). The ICCA works with barristers, judges and others drawn from the Inns, the Circuits, and the Bar Council of England and Wales. Their main functions are to provide education, leadership, guidance and coordination in relation to the pursuit of excellence in advocacy and professional ethics.

Legal Writing at the Interlocutory Stage

[7] Consider these two examples. The first example concerns the importance of pleadings. Pleadings outline the issues in dispute, the material facts and the legal basis relied upon by each party. A poorly pleaded case risks being struck out from the court's docket if it discloses no reasonable cause of action.[2] Consequently, strong legal writing skills form the backbone of precise and succinct legal drafting, ensuring that your case is properly framed and clearly understood by the trial judge from the outset.

[8] The second example is an application for summary judgment. Summary judgment applications are usually decided primarily on affidavit evidence and the written submissions of the parties. It is therefore crucial that your written submissions regarding these applications are clear, precise, and well-structured, as any vague argument may result in the dismissal of the summary judgment application.

Post-trial Written Submissions

[9] Post-trial written submissions function as a summation of the case, organising factual findings and legal arguments into a coherent narrative. They assist the trial judge in navigating complex and voluminous records, isolating pivotal issues, and formulating the judgment.

Appellate Written Submissions

[10] At the appellate level, written submissions assume even greater significance. An advocate who can distil the complexities and write them into a coherent and accessible narrative immediately earns credibility with the Bench, because it signals a deep mastery of the subject matter.

[11] The principle of appellate intervention is aptly summarised by Gopal Sri Ram JCA (as he then was) in the case of ***Renal Link (KL) Sdn Bhd v Dato' Dr. Harnam Singh [1997] 2 MLJ 373***. An appellate court will not ordinarily intervene with the trial court's findings unless it is shown that there was no proper judicial appreciation of the evidence.

[12] Against this backdrop, good legal writing is critical to the success of an appeal. An appellant must precisely identify the findings of the trial court being challenged and demonstrate why they

2 Order 18, rule 19(1)(a) Rules of Court 2012.

are wrong, whether by showing a misappreciation of critical evidence, a perverse conclusion, or a misdirection in law or procedure. A respondent, on the other hand, must explain why the appellate court should not intervene. For both the appellant and the respondent, your written arguments must be clear, logically structured, and concisely reasoned because written submissions are the appellate court's first point of reference in understanding your position.

FOUR CHARACTERISTICS OF GOOD LEGAL WRITING

[13] I will now turn to the four characteristics that truly define a good piece of legal writing. They are simplicity, brevity, accuracy, and keeping to the point.

Simplicity

[14] The first characteristic is simplicity. Polishing your writing requires not only grammatical rigour but also the avoidance of unnecessary jargon.[3] Using plain words and short sentences helps others understand your analysis quickly and avoids confusion. Here is a simple illustration to highlight the power of simplicity. When you are unwell, you will visit your clinic or family doctor. During the consultation, instead of saying, "You have upper respiratory tract inflammation," a doctor can simply say, "You have a bad cold."

[15] By using simple language, you as the patient immediately understand the diagnosis and what remedial steps to take. Similar to legal writing, clear and plain language ensures that your reader can easily follow your reasoning. This, in turn, makes your legal analysis more effective and persuasive.

Brevity

[16] The second characteristic of good legal writing is brevity. Less is more. Concise legal writing presents only the facts and law that are material to the issues and avoids narrative detours or unnecessary legal exposition because weak points will dilute your strong points.

[17] In *The Winning Brief*, legal writing expert Bryan Garner explains that using fewer words enhances speed, clarity and impact of your delivery, while unnecessary words slow the reader down and dilute your argument.[4] A sentence should contain no



unnecessary words, a paragraph should contain no unnecessary sentences. Give each word meaning in your legal writing, and your work will speak excellence.

Accuracy

[18] The third characteristic of good legal writing is accuracy. I guess most of you here have heard of Lord Denning or studied his judgments before in the course of your legal education. Lord Denning used simple, vivid words and short sentences, yet he could write his judgments with remarkable accuracy and precision.

[19] To put this into perspective, in the case of ***Barclays Bank v Inland Revenue [1961] AC 509***,[5] the UK House of Lords considered whether a deceased who held shares personally and as trustee, giving him voting control of over half the company, had "control" of the company under the Finance Act 1940 for estate duty purposes. This was how Lord Denning started his dissenting judgment in this case,[6] and I quote:

> *"My Lords, Tom Shipside died on December 15, 1955. The question is whether during the last five years before his death, he "hid the control of" a company, called T. Shipside Ltd: for the amount of estate duty depends on upon it.*

[20] Denning's style of writing provides an accurate and clear exposition of an excellent case theory. His words are simple, yet they accurately and succinctly express the problem to be resolved on appeal under

3 Bryan A. Garner, Legal Writing in Plain English: A Text with Exercises, 3rd Edition, page 62.

4 The Bar Association of San Francisco, The Justice and Diversity Centre, https://www.sfbar.org/blog/for-the-sake-of-brevity-at-the-very-least-banish-these-phrases-from-your-writing/, dated 20 December 2023, accessed 4 November 2025.

5 Peter Lyons, *Advocacy: A Practical Guide by Wildy, Simmonds & Hill Publishing, page 76.*

6 *Barclays Bank v Inland Revenue [1961] AC 509, page 539 (Lord Denning was the dissenting judge in this case).*

the Finance Act 1940 in the case of ***Barclays Bank v Inland Revenue***.

[21] Accuracy in law also requires avoiding misstatements or misquotations that could mislead the court, as such errors undermine both your credibility and your goodwill with the Bench. Precise and reliable citations demonstrate due diligence and professionalism, reflecting your responsibility for your conduct and work as a competent advocate.

Keeping to the point

[22] Last but not least, the fourth characteristic of good legal writing is keeping to the point. Effective legal writing addresses the issues directly and eliminates redundancy. In this regard, I find a quote by Lord Justice Jackson in the case of ***Inplayer Ltd v Thorogood [2014] EWCA Civ 1511*** instructive.[7]

> *"A good skeleton argument (of which we receive many) is a real help to judges when they are reading (usually voluminous) bundles. A bad skeleton argument simply adds to the paper jungle through which judges must hack their way in an effort to identify the issues and the compelling arguments. A good skeleton argument is a real aid to the court during and after the hearing. A bad skeleton argument may be so unhelpful that the court simply proceeds on the basis of the grounds of appeal and whatever the counsel says on the day.*

[23] Next time when you sit down to draft your work, pause and ask yourself: Does my work meet all four criteria? I encourage you to be your own toughest critic. It is through constant learning, reflection, and self-improvement that a good advocate grows into an outstanding one.

THE USE OF AI IN LEGAL WRITING

[24] Before I conclude, I would like to briefly address the ethical use of Artificial Intelligence (hereinafter "AI") in the legal profession. AI has enhanced lawyers' efficiency, allowing more time for sophisticated analysis and adding value to clients' work. However, AI tools must be used cautiously, as AI hallucination poses a significant ethical challenge to the legal profession. AI hallucinations mean when an AI system presents incorrect, fabricated and misleading information as factual and credible.

[25] The Malaysian Bar Council has taken the position that it neither endorses nor regulates the use of Generative-AI (hereinafter "Gen-AI") in providing legal services. While there is nothing inherently improper about using Gen-AI in your legal work, such use must comply with the ethical guidelines issued by the Malaysian Bar Council in November 2023 (the "Guide")[8], on the ethical and responsible use of Gen-AI in the legal profession. The accuracy of AI-generated output must be meticulously verified.

[26] The legal profession is a noble profession. Lawyers are expected to uphold the highest ethical standard to defend the dignity of the profession.[9] In the context of legal writing, an advocate and solicitor must never practise deception on the court[10] by citing fake cases or cases of non-existence generated by AI.

[27] You may be swept by the algorithmic waves of the AI revolution that is quietly reshaping the future of legal profession, but the guidelines for the responsible use of Gen-AI, together with the Bar Council's ethical rules, should serve as your compass of conscience. The highest standard of integrity and professionalism of the legal profession must manifest in every piece of legal writing that you produce.

CLOSING REMARKS

[28] As we stand at the outset of this Conference, may the fruitful discussions in these plenary and breakout sessions refine your craft and rekindle your passion in legal writing. We will definitely look forward to receiving written submissions that not only impress us with their clarity and precision, but also guide us through the nuances and intricacies of the law. I wish you a profoundly fruitful and insightful conference.

Thank you.

7 *Inplayer Ltd v Thorogood* [2014] EWCA Civ 1511, paragraph [55].

8 The Malaysian Bar Council, Circular No: 342/2023, dated 24 November 2023.

9 Rule 31, Legal Profession (Practice and Etiquette) Rules 1978.

10 Rule 17, Legal Profession (Practice and Etiquette) Rules 1978.

LEGAL WRITING CONFERENCE



Written by
Arif Umar Faruq b Faiz and Iqbal Harith Liang
Members, Publications Committee

The Legal Writing Conference returned for its second iteration on the 20th and 21st of November 2025. Jointly organised by the Bar Council Publications Committee and the Malaysian Bar Secretariat's Continuing Professional Development ("CPD") Department in collaboration with Brickfields Asia College, the 2025 Conference continued the profession's ongoing conversation on legal writing as a core discipline. Building on the inaugural edition in 2024, the Conference revisited foundational principles while addressing the evolving realities of contemporary practice. Over one and a half days, participants attended plenary sessions and specialised breakout sessions led by members of the judicasing and experienced practitioners and academics.

Continuity of Learning in an Evolving Landscape

Two closely linked principles resonated throughout the Conference. Firstly, the importance of **continuity** in a practitioner's refinement of his/her's legal writing skills, and secondly, the need for adaptability throughout the **evolution** of legal practice and demands placed on practitioners.

In his Welcome Address, Gregory Das, Chairperson of the Publications Committee, highlighted the trends of an increasing complexity of cases, the rise of cross-border work and foreign investment, and the growing availability and use of artificial intelligence ("AI") as some of among many reasons practitioners must maintain strong writing skills and responsible practices.

The President of the Malaysian Bar, Mohamad Ezri b Abdul Wahab, reinforced in his address that legal writing is learned through perseverance and critique. He reminded participants that legal writing shapes public trust and institutional accountability, emphasising that the "*clarity of our words can illuminate truth, their persuasion can strengthen accountability, and their courage can defend rights*."



The Art of Persuasion

The Keynote Address was delivered by the President of the Court of Appeal, The Right Honourable Dato' Abu Bakar b Jais. His Lordship's address centred on legal writing as a tool of persuasion at every stage in the arena of litigation. His Lordship stressed that growth in writing comes through "*constant learning, reflection and selfimprovement*", and that judges rely on credibility, clarity and succinct reasoning to reach just outcomes.

His Lordship also highlighted the importance of clarity and structure in written persuasion, emphasising that written submissions form a case's initial framework, while oral advocacy can add the depth and colour which, taken together, allow the judges to visualise the full facts of the case. His Lordship reminded participants of four essential characteristics of compelling writing, namely *simplicity*, *brevity*, *accuracy*, *and keeping to the point*. "***Give each word meaning in your legal writing, and your work will speak excellence***," His Lordship advised.

Guiding Principles: Old and New

The plenary sessions at Legal Writing Conference 2025 underscored the reliance placed on lawyers' writing by judges, clients and the public. In the series of three plenary sessions, the speakers set out several guiding principles in a practitioner's use of their legal writing toolkit, housed in both tradition and modern developments.

Plenary 1 — Legal Writing and the Public Role of Lawyers

In the first plenary session, speakers Christopher Leong (Partner, Chooi & Company), Professor Gurdial Singh Nijar (Partner, G.S. Nijar) and Fahri Azzat (Partner, Fahri Azzat & Co.) and moderator Nimalan Devaraja (Deputy Chairperson, Publications Committee) explored the responsibilities that accompany a lawyer's ability to communicate legal issues to a wider audience. Discussing the role that lawyers play in translating complex legal issues for public understanding, the speakers noted that clarity, honesty and proper research are essential when writing, particularly for non-legal audiences. The panel also addressed how practitioners, including young lawyers, can navigate sensitivities in public commentary. Disagreement, they noted, is part of engagement; and what matters is practising one's writing, considering alternative views and maintaining objectivity and responsibility.









Plenary 2 — Written Submissions



In the second plenary session, Court of Appeal Judge Justice Dato' Azizul Azmi b Adnan and experienced litigator Khoo Guan Huat (Khoo Chambers) discussed techniques for clear and effective written advocacy. The session was moderated by Velary Thrisha Velayathan (member, Publications Committee). Both speakers emphasised simplicity, structure and an acute awareness at all material times of the demands of the audience. Justice Dato' Azizul explained how judgments are crafted into cohesive texts and highlighted the difference between submissions at first instance and on appeal, where in the former, the judge grows with the case and the development of the evidence; whereas in the latter, appellate judges place reliance on the clarity, aptitude and credibility of written work. What was emphasised throughout the session was that while written advocacy is an art, it is one that can be learned and refined with discipline and practice.

Plenary 3 — Legal Writing, AI and Ethics







In the third plenary session, Federal Court Judge, Justice Datuk Vazeer Alam Mydin Meera; High Court Judge, Justice Tuan Atan Mustaffa Yussof Ahmad and practitioner, Foong Cheng Leong (Foong Cheng Leong & Co.) discussed the increasing role of AI in legal practice and embracing it responsibly. Voon Su Huei (member, Publications Committee) moderated the session. The speakers stressed that the principles of clarity, simplicity and specificity apply equally when utilising AI tools to enhance output, for example in the construction of clear and precise prompts when using generative AI. Justice Atan shared with the audience several prompts that aid in the consumption of legal writing and the analysis of documents filed by parties in the course of litigation, including, for example, generating chronologies of fact, organising material, and reviewing written work. Foong Cheng Leong demonstrated how AI supports and supplements several functions such as searches, review, and drafting and research, when supplied with precise information. Justice Datuk Vazeer stressed the need, whilst using AI, to preserve both standards of quality and ethical usage. His Lordship emphasised that *trust* should always come with *verification,* delivering the clear message that the standards of practitioners should be to always review, vet and, where necessary, redo the written output before it is published using AI assistance.

Deploying The Toolkit: Breakout Session

The breakout sessions allowed participants to tailor their experiences to particular areas based on their practice and interests. Each breakout session reinforced several principles emphasised throughout the Conference – clarity, structure, responsibility and the continuous sharpening of legal writing across practice areas. Audience members were given the choice to attend the following breakout sessions.



- **Construction Law: "Drafting a CIPAA Claim"** — led by Rajendra Navaratnam (Partner, Azman Davidson & Co) and Darshendev Singh (Partner, Lee Hishammuddin Allen & Gledhill) and moderated by Dinesh Nandrajog (Member, Publications Committee).

- **Corporate Practice: 'Drafting Shareholders' Agreements – Avoiding Disputes'**, presented by Janet Looi (Partner, Skrine), Andrew Chiew Ean Vooi (Partner, Lee Hishammudin Allen & Gledhill), and Halina Jael (Senior Counsel (APAC), 500 Global) and moderated by Arif Umar Faruq b Faiz (member, Publications Committee).



- **Criminal Practice: "Legal Writing for Criminal Practice"** — featuring Court of Appeal Judge, Justice Datuk Wong Kian Kheong and veteran criminal practitioner, Hisyam Abdullah @ Teh Poh Teik (Partner, Hisyam Teh), moderated by Rajsurian Pillai (Member, Publications Committee).







- **Arbitration: 'Legal Writing for Arbitration'**, led by Federal Court, Justice Dato' Lee Swee Seng and Mr. Mohanadass Kanagasabai (Partner, Mohanadass Partnership) and moderated by Leong Chee Weng (Partner, Lee & Poh Partnership).



Each individual session and the presentations by the wide array of speakers offered the audience a glimpse into tips and practices of several decision makers throughout the various stages of legal practice – the practitioner who acts as adviser and as advocate and makes key decisions in the strategy and presentation of their client's case, the general counsel who represents the key stakeholder that drives the decision making of the client both in transactional and contentious contexts, and the judge, whose task is to understand and distil the facts and principles that inform the rendering of a judicious decision. Each speaker in their presentations demonstrated the importance of honing one's ability to write effectively in advising clients, crafting arguments, and balancing competing factors and considerations to ensure written product of a high standard.



What tied together the Legal Writing Conference, as exemplified by the various speakers throughout, was the emphasis on the interplay and collaboration between all participants in the legal industry in ensuring that their written output remains honest, accurate, effective and of exceptional quality.

Looking Ahead

The Legal Writing Conference 2025 marked an occasion for the Malaysian Bar to signal again its commitment to knowledge sharing, the development of professional skills, and the improvement of legal literacy through responsible and accessible writing.



As expressed by Conference Chairpersons, Ryan Chu Soon Wei and Lucy Lee Zhe Hui (Members, Publications Committee), in their closing remarks, the organisers extend their utmost gratitude to the speakers and participants in this year's Legal Writing Conference, all of whom dedicated their valuable time to ensuring the continuation this series.

The Conference presented a recurring message of encouragement to audience members to not lose sight of the importance of continuing the learning process and the need to remain flexible with the evolving landscape in legal practice. We look forward to experiencing again the enthusiasm of the Malaysian Bar for discussing the career-long endeavour of refining one's skills in writing.



WALK to SAFEGUARD JUDICIAL INDEPENDENCE

14 July 2025

The Walk to Safeguard Judicial Independence ("Walk") was organised to express deep concerns regarding, among others, unexplained delays in the judicial appointments, a significant number of vacancies across all levels of the Judiciary and allegations of possible interference in judicial affairs.

Written by
Liew Kok Heng
Publications Department,
Malaysian Bar

On 14 July 2025, close to 1,500 participants gathered at the entrance facing Perbadanan Putrajaya at the Palace of Justice in Putrajaya before proceeding to the Prime Minister's Office to hand over the Memorandum to Safeguard Judicial Independence, wherein the Malaysian Bar:

(1) calls upon judicial leadership positions to be filled as soon as possible by judges of impeccable character, integrity, unblemished reputation, judicial experience and acumen as measured and demonstrated by a record of quality, consistency and clarity in decision making and written judgments, and who command the respect of their peers on the Bench, at the Bar, and the Malaysian public;

(2) reiterates our call for the immediate release of the relevant official Judicial Appointments Commission ("JAC") meeting minutes and to call for urgent and immediate inquiries into whether or not there was interference in judicial affairs and/or confirmation that what purports to be the JAC minutes circulated on social media are authentic (or otherwise);

3) renews our call for the establishment of a Royal Commission of Inquiry to investigate whether or not there was any interference with the Judiciary; and

(4) calls for the numerous vacancies in the Judiciary to be expeditiously filled.

The Office Bearers of the Malaysian Bar took turns to address the issues at stake and energise the crowd — clad in chambers attire, carrying placards and banners as well as umbrellas — for the Walk ahead. At 2:30 pm thereabout, Mohamad Ezri b Abdul Wahab, President of the Malaysian Bar, led the Walk from the Palace of Justice, along Persiaran Perdana, towards Putra Square.

Despite the sweltering weather, the participants remained orderly over the 2.6-kilometre journey. The strong turnout — comprising Members of the Malaysian Bar, pupils in chambers, representatives of civil society and members of the public — signified a shared and unwavering commitment to safeguard judicial independence. The atmosphere throughout the Walk was solemn yet resolute, with the occasional chants of "Bebas Kehakiman" and "Hidup Kehakiman", reflecting the urgency and gravity of the concerns raised.



On the steps of the Palace of Justice, Putrajaya.

Upon reaching Putra Square, Mohamad Ezri b Abdul Wahab led a smaller delegation to the Prime Minister's Office to hand over the Memorandum. Datuk Zamri b Misman, Director-General, Legal Affairs Division of the Prime Minister's Department, received the Memorandum on behalf of Prime Minister Dato' Seri Anwar Ibrahim.



Members of the Bar came prepared with umbrellas to face the weather.



The Office Bearers of the Malaysian Bar handing over the Memorandum to Datuk Zamri b Misman.



Have wheels, will travel.



Members of the Malaysian Bar gathering at Putra Square before the Prime Minister's Office.

Corporate and Commercial Law



WHY COMPANY LAW MATTERS:

A Personal Journey

"Philip, you mean you are a second upper student." The Company Law lecturer at the University of Malaya remarked. He thought I was such a poor undergraduate in his class that I was not made to be a good lawyer, especially in the field of corporate law. Sometimes the sting of criticism goads one to embark on a path and, spurred by the remark, I had the opportunity to study an LLM at University of London and to select Advance Company law under Professor Wedderburn of London School of Economics, a recognised academic in the field. Returning to Malaysia and after a stint of teaching I left law teaching for practice.

Written by
Philip T N Koh
Advocate & Solicitor

Companies are ubiquitous in modern life.

In commercial legal practice in corporate law, my first encounter was to look into capital market regulations and the co-operative crisis. The instructions came from BNM and also insolvency practitioners in respect of the powers and functions of receiver and managers and liquidators and scope of their authority over sale and disposal of assets. The issue of priority of equitable interest with forays into set off, tracing into mixed funds and priorities of creditors' claims threw up myriads of legal issues. Those days, there were no databases or search engines to assist. One had to work from first principles, mostly from English treatises and Commonwealth case authorities. The comparative approach and applying by analogies to Malaysian factual matrix engendered a vigour of analysis and application.

Company law intersects with statutory interpretation, common law, trust law, and equitable principles.

Company law comes alive as we have to navigate the rights of shareholders, duties of directors, and contested takeover bids within the context of market economy.

When we were at law school, we generally imbibed "left" rhetoric and disdained business. However, I learnt that to be able to critique responsibly, one must gain adequate knowledge of the field so that our attempt to engage with the terrain, is done with a grasp of the subject matter and not just empty polemic.



To do this, we need to start to see the context in which company law was born in the late 19th century with the famed Salomon Decision, where the House of Lords articulated the separate entity doctrine. Law follows the explosive growth for need of capital, both equity and loan. The boot maker, who under the advice of Chancery professionals incorporated a company where his family members held nominal shareholding and he held the major portion. When Salomon Limited went insolvent, both the High Court Vaughan William J and at Court of Appeal led by Lindley LJ, all leading justices in commercial law refused to give limited liability to Salomon. The House of Lords, in a landmark ruling, permitted the "corporate veil" to remain to protect the shareholders from unlimited liability.

It is not an overstatement that the Salomon Decision provided the foundation of modern market economies[1].

The impact on modern society has been both a boon and a bane. The advantages of separate entities that shield providers of equity from unlimited liability means a corporation can raise capital from ordinary investors and harness the monies to fuel industries and support entrepreneurial energies.

However, the bane is that it can be abused as a vehicle, a sham that shields the controllers of the entity from personal responsibility and liability. It can be a vehicle of fraud for scammers hiding behind entities and invoking corporate veil as defence for fastening any criminal or civil liabilities.

The Courts have recognised this, so too the legislature and with the corporate governance crisis in the 1990s, in Anglo-American jurisdictions law reforms that enhance the fiduciary duties of directors was emblematic. I was privileged to be involved in the Securities Commission initiative to reform duties on senior management that quickened the duties of care and skill and also the "no conflict" rules. During this period also there was and still is the debate between what is the purpose of a corporation. The defenders of shareholder value contrasted with European stakeholder value proponents. I recollect attending an INSEAD roundtable forum at Fontainebleau, France, whereas in EU jurisdictions with their two-tier boards, ie one which has members who may include unionists and or environmentalist, and a unitary board

1 See the lively account by Alastair Hudson, *Understanding Company Law* (Routledge) (2013).

which solely advances shareholder value. These days we have "sustainable shareholder value" as a convenient convergence of the two contesting schools and the growth of ESG matrices that regulators have embraced and imposed on corporations. There have also been legislative measures that impose direct liabilities on officers of a corporation that has been in default or non-compliance.

Company law bristles with drama when hostile takeover bids and also intra-battle for control of the board of directors occur. As companies evolved into group enterprises and attained transnational reach, its presence in the 21st century became a behemoth which the leviathan of State sovereign control could scarcely rein in.

In shareholders disputes, a lawyer is drawn into the cauldron of sibling rivalries upon the death of the founder(s). Derivative proceedings, minority oppression and/or just and equitable winding-up actions open up curtains to dysfunctional families or fallouts between joint venture partners[2]. Such are stuff that rivals TV dramas. A lawyer advising on such must maintain independence of counsel, reminding us of our commitments to legal etiquette, and refrain from fuelling disputes. Regretfully, this is hard and our adversarial system tends to give rise to expensive interlocutory applications that burden the Courts' time.

The increasing involvement of government in business also draws public, criminal and private laws into a vortex and amalgam of issues. The political economic dimension in a jurisdiction also plays out fascinating juristic contestations[3].

Company law reform initiatives from Companies Commission of Malaysia led to the Corporate Law Reform Committee ("CLRC") on 17 December 2003, which led to passage of Companies Act 2016 replacing the 1965 Act which the renowned Company law jurists LCB Gower had a hand in.

All lawyers have to be cognisant of the breadth of company law, and its practice within the myriads of legal regulatory frameworks calls for analytical discipline and discernment whether as a solicitor in a corporate exercise or rendering of an opinion or in a litigious dispute.

Company law matters, and in the battle between economists and lawyers as to who rules the modern world, a corporate lawyer plays a more than significant role[4].

We may assert confidently that company law is indeed highly significant in modernity, and as practitioners in this field, we contribute by our counsel to its affairs.

2 See Philip Koh, "Capital Markets, Corporates await ruling on agreements and shareholders' rights", *The Edge Malaysia*, 2 August 2023; Philip TN Koh, Wong Tat Chung, Yeap Chi Cheng & Alicia Ng, "Apex Court's decision on shareholders' pre-emptive rights is principled yet pragmatic", *The Edge Malaysia*, 26 March 2024.

3 See Andrew Harding, "My Say: Weighing the effects of judicial review on planning applications, *The Edge Malaysia*, 8 November 2024; See also A Harding, *The Constitution of Malaysia: A Contextual Analysis*,2nd Edition (Hart) (2022).

4 See Philip R Wood, *The Fall of Priests and the Rise of Lawyers* (Hart) (2017).



PHOTO CREDIT Gerd Altmann from Pixabay

NAVIGATING COPYRIGHT in the AGE of GENERATIVE AI



Written by
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Advocates & Solicitors

Today, we see the rapid development of generative artificial intelligence ("AI") technologies and their adoption by users across the world to assist them in all kinds of daily tasks. As AI pushes beyond the creative boundaries from performing simple tasks to autonomously creating works ranging from text, images, music and even software codes, the line between human and machine is getting faint. The increasing use of generative AI challenges the core principle of traditional copyright framework where legal protection is premised on original works produced by human authors. Thus, AI-driven creativity forces a thorough reassessment of authorship, ownership, liability and regulatory frameworks in copyright law.

To better understand the crux of the matter, it is important to first learn how generative AI works. Generative AI uses machine-learning models to learn the patterns from extensive data created by humans. It then uses the learned patterns to generate new content from simple language prompts. Notable examples include large language models ("LLMs") such as OpenAI's GPT series and Google's Gemini for writing and chatbots, DALL·E and Stable Diffusion for image creation, GitHub Copilot for coding, and Udio for music creation.

A striking example of how generative AI presents critical legal challenges concerning copyright laws: on 25 March 2025, a tool was released by OpenAI on ChatGPT allowing users to upload an image and recreate it in the style of the user's option, and one of the most popular style was that of Studio Ghibli, the Japanese animation studio behind many successful films such as *Spirited Away, My Neighbor Totoro* and *Howl's Moving Castle*. Almost immediately, the Ghibli AI phenomenon began to flood the internet. The images generated clearly resembles the distinctive visual characteristics associated with Studio Ghibli. While OpenAI CEO Sam Altman called this new feature as *"a new high-water mark for us in allowing creative freedom"* and also changed his profile photo on X to a "Ghiblified" image, the Japanese trade organisation representing publishers like Studio Ghibli asked OpenAI to stop training its AI models on their copyrighted content without permission, and Japan's Content Overseas Distribution Association also claims that there might be copyright violation in Japan.

There are two main legal challenges posed in the age of generative AI that essentially tie to the two fundamental cores of copyright law: human authorship and originality.

In Malaysia, s. 10(1) of the Copyright Act 1987 ("CA 1987") provides that copyright shall subsist in every work where the author is a "qualified person" under s. 3 of CA 1987, when the work is made, ie a person who is a citizen or permanent resident in Malaysia, or a body corporate established in Malaysia or vested with legal personality under the laws of Malaysia. The Copyright (Application to Other Countries) Regulations 1990 further grants works originating from specific countries, particularly those in the Berne Convention, the same protection in Malaysia as if they were Malaysian works. Same protection is also extended to foreign authors under the principle of "national treatment", provided they are citizens or permanent residents of a Berne Convention member country at the time the work was made, and that the work was published in Malaysia within the time frame stipulated by s. 10(1)(b) alongside s. 4(3) of CA 1987. All in all, the law does not recognise AI as the author of an AI-generated work.

Similarly, many other jurisdictions also require human authorship for copyright protection. While the Court in the United States ("US") case of *Thaler v. Perlmutter* (2023) denied copyright for art created entirely by AI with no human input, there is an ongoing discussion in the European Union to consider sui generis right for AI-generated works and to extend limited rights to such works. Besides, the United Kingdom ("UK")'s Copyright, Designs and Patents Act 1988 has a specific provision for "computer-generated works" assigning authorship to the person who made the necessary arrangements for the creation of work, for a shorter protection period.

As such, it appears that sufficient human intervention in the creation of work will justify copyright protection when AI is merely being an assisting instrument, rather than a creator. However, in cases where there is human input in an AI-generated content, who owns this copyright? Is it the developer of the AI model who arguably creates the data learning process? Is it the user who inputs the prompts that allows the AI to generate the content? Or the owner of the data used by the AI? More so, how much human intervention is necessary to qualify as an author? Despite most generative AI tools providing terms of service or terms of use that grant users rights to outputs, unfortunately, to date, there is no clear guideline from legislators to resolve these issues, thus creating ambiguity in the regulatory landscape.

Further, we also understand that the training process of generative AI often involves using a significant amount of copyrighted works, thereby raising another important question: does training generative AI models constitute copyright infringement? In fact, OpenAI has publicly admitted that it would be impossible to train its AI chatbot, ChatGPT, without access to copyrighted works. Nonetheless, authors and copyright owners believe that AI-generated content is a nuanced reproduction of the collective copyrighted works without their authorisation and hence, it amounts to copyright infringement.

Conversely, AI companies argue that generative AI tools make fair use of copyrighted works by studying them to learn to create new content. Fair use is the term used under the US copyright law, akin to fair dealing under the English and Malaysian copyright law. By virtue of s. 13 of CA 1987, the defence of fair dealing allows for copyrighted works to be used without authorisation for non-commercial purpose and specific purposes, including for research, private study, criticism, review or the reporting of news or current events, provided that it is accompanied by an acknowledgement of the title of the work and its authorship (for certain works).

Fair use is the key defence for AI companies, including OpenAI and Microsoft, in the ongoing copyright lawsuit brought by *The New York Times* ("Times") over the unauthorised use of their news articles to train generative AI tools, namely ChatGPT and Copilot. Currently, this case is in the discovery stage, where a court order was obtained for OpenAI to preserve users' chat logs for the Times to review as potential evidence of infringement. All eyes are on this lawsuit as its outcome will set a significant legal benchmark, particularly on the defence of fair use and fundamentally redefining copyright law in the age of generative AI.

In the meantime, Getty Images, which owns one of the largest photo libraries in the world, filed a lawsuit against the developer of Stable Diffusion, Stability AI, in the US and UK for copyright infringement. However, Getty Images withdrew its primary copyright infringement claim in the UK due to jurisdictional hurdle where the training of Getty's photos largely occurred on servers in the US. In November 2025, the UK Court ruled that the AI model did not constitute an "infringing copy" as it does not store or reproduce any copyrighted works. This decision was seen as a major win for the AI companies, establishing that training AI models on copyrighted works in the UK does not automatically constitute infringement, but the crucial question of whether training an AI model on





copyrighted material without a licence is lawful if the training occurs within the UK's jurisdiction, remains a live issue. In any event, Getty Images shifted its legal battleground for a fresh start on the same copyright infringement issue in the US where the training data centres are located.

One possible way to put the controversy to rest is to mandate that AI companies can only train their AI models on copyright protected works if they are licensed or authorised by the copyright owners. A licensing framework can help to regulate the use of copyrighted training data and may prove to be mutually beneficial for both copyright owners and AI companies. In fact, major music labels like Universal Music Group had resolved their copyright infringement case through licensing deals with Udio (a generative AI music creation platform). The deal involves Udio creating a new platform where users can legally generate music using licensed songs, while artists and songwriters are fairly compensated for their works. However, this may be tricky as ownership of copyright works can come with many layers with different owners. It will be difficult to determine whether the AI companies have obtained all the necessary licences and authorisations from all relevant parties.

In addition, AI companies are also encouraged to be more transparent about their training data and have more ethical AI models. For example, Neutune, a South Korean AI research lab, is developing an attribution system to track and credit the creators whose work plays a part in AI-generated music. Besides, possible reforms such as introducing new AI-generated work statutory rights, as well as fair dealing exceptions tailored to the use of AI, should also be considered.

It is only a matter of time before these legal issues are being tested under the Malaysian law. In view of the highly technical nature of generative AI, it will be very challenging to prove all the elements of copyright infringement, especially the subsistence of copyright over AI-generated work, or proof of use of copyrighted work.

Given the inherently human-centric nature of copyright law, the existing traditional framework is likely to continue prioritising the protection of human creators. However, the advent of generative AI and increasingly unethical use of copyrighted works suggest that the law cannot remain static. Accordingly, the Malaysian legal framework may need to adapt by introducing necessary amendments to address emerging issues in a manner that strikes a careful balance — one that does not unreasonably impede technological innovation, yet continues to respect and safeguard the intellectual property rights of creators. Ultimately, while generative AI may serve as a powerful tool to enhance efficiency and expand creative possibilities, one cannot deny that human input and personal expression remain the most valuable and irreplaceable elements in the creative industries. As the saying, often attributed to filmmaker Martin Scorsese, goes, *"the most personal is the most creative"*.

Construction Law

PRINCIPAL LIABILITY in CONSTRUCTION DISPUTES:

A Closer Look at Section 30 of CIPAA 2012



The Construction Industry Payment and Adjudication Act 2012 ("CIPAA") was enacted to promote timely payment and provide a swift adjudication mechanism for payment disputes. Section 30 of CIPAA provides for a unique mechanism which allows a party that has obtained a favourable adjudication decision to seek payment directly from the principal of the non-paying party, even in the absence of a contractual relationship. This provision is a legislative instrument designed to overcome the traditional barriers of privity of contract to reduce disruption to cash flow, the construction industry's lifeblood.

Written by
Michael Koh, Raymond Mah and Aishah Rahim,
Advocate & Solicitor

The Concept of the "Principal"

A central feature of section 30 of CIPAA is the statutory concept of the principal. The principal is defined as a party who has contracted with and is liable to pay another party who, in turn, is liable to pay a further person within the contractual chain. Judicial interpretation emphasises that this is a functional inquiry: what matters is the party's position in the payment hierarchy rather than formal titles such as employer, developer, or main contractor.

This principle was illustrated in *Glocal Tech Engineering Sdn Bhd v Panzana Enterprise Sdn Bhd* [2021] MLJU 474, where the High Court confirmed that a principal may exist at any tier of a subcontracting structure. Similarly, *Bond M&E Sdn Bhd v Pali PTP Sdn Bhd* [2022] 11 MLJ 58 highlighted that the inquiry focuses on actual financial obligations rather than contractual labels.

The Court of Appeal in *Kinu Sdn Bhd v Kerajaan Malaysia (JKR)* [2025] 5 MLJ 162 reinforced this functional approach, holding that an employer's consent to a subcontract is irrelevant. What matters is that the principal owes money to the main contractor, who, in turn, owes money to the subcontractor. Contractual clauses or internal administrative requirements cannot displace the statutory framework.

The mandatory nature of the principal's obligation was emphasised in *CT Indah Construction Sdn Bhd v BHL Gemilang Sdn Bhd* [2019] MLJU 1215, where the Court of Appeal observed that section 30(3) of CIPAA imposes a legal duty on the principal to pay the adjudicated sum without discretion, unless payment has already been made by the main contractor.



LAWS OF MALAYSIA

Act 746

CONSTRUCTION INDUSTRY PAYMENT AND ADJUDICATION ACT 2012

Intercepting "Money Due or Payable"

Section 30 of CIPAA does not create a new debt; rather, it intercepts an existing debt. The debt must be "due or payable" at the time of the written request.

Under this framework, a sum paid by the principal under a direct payment order may be recovered from the main contractor as a debt under section 30(4) of CIPAA, since the payment is made on behalf of the contractor. As emphasised by the Court of Appeal in *JDI Builtech (M) Sdn Bhd v Danga Jed Development Malaysia Sdn Bhd* [2024] 4 MLJ 29, the principal's recovery is limited to money due or payable to the contractor; the principal is not obliged to pay where no such sums exist, as that would effectively make the principal a guarantor for the contractor's obligations, which is not what CIPAA intended.

The Court of Appeal held that section 30 was designed as a distinct enforcement mechanism, separate from garnishment under section 28(1) of CIPAA, recognising the structure of the construction industry where subcontractors perform the works, and the principal is the ultimate beneficiary. It allows subcontractors to claim direct payment from retention sums or other amounts payable by the principal to the main contractor, provided the statutory conditions are met. This applies even if the principal has terminated the main contractor for causes unrelated to the subcontractor's performance.

The High Court in *Concrete Empire Sdn Bhd v Turnpike Synergy Sdn Bhd* [2023] MLJU 2452 further clarified that section 30 gives rise to a separate and independent statutory obligation, which is not displaced by the commencement of insolvency-related processes, including judicial management or liquidation regimes under the Companies Act 2016. The Court emphasised that general insolvency moratoria cannot be relied upon to defeat a section 30 claim where monies are due or payable by the principal at the material time. This reinforces Parliament's deliberate policy choice to preserve cash flow within the construction industry even in the face of competing statutory frameworks governing corporate insolvency.

These authorities crystallise a core doctrinal principle: section 30 operates on the basis of statutory policy rather than contractual formality, imposing a direct payment obligation on the principal that exists independently of the contractor's solvency status. The courts have therefore consistently adopted a purposive and commercially pragmatic interpretation, recognising that the efficacy of CIPAA would be undermined if adjudicated sums could be neutralised by liquidation or judicial management processes upstream in the contractual chain.

Evidential Burden and Judicial Pragmatism

Subcontractors typically lack access to upstream payment records, making it impractical to prove the absence of payment by the main contractor. *JDI Builtech* [2024] established that subcontractors may meet the initial evidential burden through reasonable inferences, such as the regular submission of progress claims or certification practices.

Kinu [2025] reaffirmed this approach, holding that once the subcontractor has discharged this light evidential burden, the principal bears the responsibility to demonstrate that no money was due at the material time. The failure to produce supporting documentation

to disprove the debt opens the door for the courts to draw adverse inferences. This evidential structure balances statutory discipline with commercial reality, ensuring section 30 remains both effective and fair.

Relationship with Section 28

Section 30 of CIPAA functions autonomously and does not require prior enforcement under section 28. Decisions such as *HMN Nadhir Sdn Bhd v Jabatan Kerja Raya Malaysia* [2018] MLJU 1859 and *Kinu* [2025] confirm that a subcontractor may request direct payment from a principal even before adjudication decisions are converted into court judgments. This independence preserves the remedial efficacy of section 30, reinforcing its role as a statutory safeguard rather than a procedural afterthought.

Conclusion

Section 30 of CIPAA represents a deliberate and robust statutory intervention. It recalibrates the allocation of payment risk, imposes obligations on principals irrespective of privity or internal consent requirements, and reflects Parliament's commitment to sustaining cash flow within the construction industry.

Judicial interpretation and application of Section 30 have consistently upheld this protective function. The courts have resisted formalistic arguments designed to restrict the application of Section 30, whether relating to contract termination, insolvency, or administrative policies. Across decisions including *HMN Nadhir* [2018], *CT Indah* [2019], *Glocal Tech* [2021], *Concrete Empire* [2023], and *JDI Builtech* [2024], the judiciary has emphasised statutory purpose, commercial reality, and pragmatic enforcement. Kinu [2025] illustrates that courts are willing to confront contemporary complexities, retention sums, evidential burdens, and employer consent clauses, without undermining the statutory framework.

Judicial evolution of section 30 illustrates how statutory design, purposive interpretation, and practical adjudication converge to ensure that those who perform work are not left unpaid due to upstream disputes or administrative manoeuvring.

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- *CT Indah Construction Sdn Bhd v BHL Gemilang Sdn Bhd* [2019] MLJU 1215
- *Concrete Empire Sdn Bhd v Turnpike Synergy Sdn Bhd* [2023] MLJU 2452
- *HMN Nadhir Sdn Bhd v Jabatan Kerja Raya Malaysia* [2018] MLJU 1859
- *Kinu Sdn Bhd v Kerajaan Malaysia (JKR)* [2025] 5 MLJ 162





TECHNOLOGICAL ADVANCEMENT and RETRENCHMENT:

Is It a Valid Justification under Malaysian Employment Law?



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Introduction

Technological advancement is no longer a peripheral consideration in employment relationships. Automation, Artificial Intelligence ("AI"), and digitalisation increasingly influence how businesses structure operations and deploy labour. While these developments promise efficiency and competitiveness, they also place pressure on traditional employment models and raise difficult legal questions. One such question is whether technological advancement constitutes a valid justification for retrenchment under Malaysian employment law.

At a global level, the anticipated scale of workforce disruption is substantial. The World Economic Forum has projected that by 2025, approximately 85 million jobs may be displaced due to changes in the division of labour between humans and machines, even as 97 million new roles emerge in response to technological change.[1]

Malaysia is not immune to these developments. Research by McKinsey & Company suggests that automation could affect up to 25 per cent of total work activities in Malaysia by 2030, with particularly pronounced effects in manufacturing and service-oriented sectors.[2]

Against this economic backdrop, employers increasingly invoke "technology", "digital transformation", or "automation" as grounds for workforce reduction. However, Malaysian labour jurisprudence has consistently cautioned against treating technological advancement as a self-executing justification for retrenchment. The law requires more.

At its core, retrenchment must be grounded in genuine redundancy, exercised in good faith, and implemented in accordance with principles of substantive and procedural fairness. This article examines how Malaysian laws have approached retrenchment arising from technological change, and the limits they have placed on its use as a justification for termination.

1 "The Future of Jobs Report 2020", World Economic Forum, October 2020 (https://www3.weforum.org/docs/WEF_Future_of_Jobs_2020.pdf).

2 Automation and Adaptability: How Malaysia Can Navigate the Future of Work, McKinsey & Company's website, 2019 (https://www.mckinsey.com/featured-insights/asia-pacific/automation-and-adaptability-how-malaysia-can-navigate-the-future-of-work).



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The Legal Basis of Retrenchment in Malaysia

Although the Employment Act 1955 does not define "retrenchment", it implicitly recognises redundancy as a legitimate ground for termination. Section 12(3) permits termination where the contract is brought to an end for reasons of redundancy, subject to the applicable notice requirements.[3] The Employment (Termination and Lay-Off Benefits) Regulations 1980, meanwhile, mandates payment of termination benefits to employees who have been laid off or retrenched due to redundancy.

Statutory obligations extend beyond notice and payment of retrenchment benefits to employees. Under the Employment (Retrenchment) Notification 2004, employers are required to notify the Director General of Labour of any intended retrenchment exercise at least 30 days in advance by submitting the PK Form (Pemberitahuan Pemberhentian Kerja).[4] Failure to comply exposes the employer to potential penal consequences and may also undermine the *bona fides* of the retrenchment exercise.

More significantly, disputes arising from retrenchment fall within the purview of section 20 of the Industrial Relations Act 1967 ("IRA 1967"), where an employee (workman) could challenge the redundancy assertion of his employer and claim that his termination of employment is dismissal without just cause or excuse. In such cases, the Director General of Industrial Relations is tasked to make a reference of the claim to the Industrial Court in the event that there is no reconciliation between the employee and his employer. The Industrial Court has the duty of determining whether the termination of employment due to retrenchment was as a result of genuine redundancy, and whether the retrenchment exercise was carried out in accordance with the established process and procedures. The courts have repeatedly affirmed that retrenchment, though a managerial prerogative, is not immune from scrutiny of the law.

In summary, as held in *Lilly Industries (M) Sdn Bhd v. Billy Wayne Selsor*,[5] the company must prove the following: Firstly, there must be redundancy. Secondly, applying an objective criterion, the dismissed workman must have been correctly selected for retrenchment. And thirdly, the employer should have adopted a fair procedure before carrying out the retrenchment. These form the three pillars upon which an employer establishes the correctness of the dismissal.

Redundancy: The Cornerstone of Lawful Retrenchment

The concept of redundancy lies at the heart of lawful retrenchment. Malaysian jurisprudence defines redundancy as a situation where the employer no longer requires the services of an employee due to a surplus of labour arising from business exigencies such as restructuring, downsizing and outsourcing, for greater efficiency, including technological adaptations at the workplace.



3 Employment Act 1955, section 12(3).

4 Employment (Retrenchment) Notification 2004, Department of Labour Peninsular Malaysia's website (https://jtksm.mohr.gov.my/en/services/employees-retrenchment).

5 Lilly Industries (M) Sdn Bhd v. Billy Wayne Selsor [2006] 3 ILR 1507.

In *Harris Solid State (M) Sdn Bhd & Anor v Bruno Gentil Pereira & Ors*, the Court of Appeal recognised the employer's right to reorganise its business but stressed that retrenchment must be *bona fide* and not used as a device to disguise dismissals for ulterior reasons. The determination of the existence of redundancy, the court held, is a question of fact that must be supported by evidence.

This approach was reaffirmed in *Woo Vain Chain v Malayawata Steel Bhd*, where the Court of Appeal explained that redundancy refers to a surplus of labour and not merely a relabelling of roles following reorganisation.[6]

This reasoning was also adopted in *John D'Cruz A/L G Francis D'Cruz v Zurich Takaful Malaysia Berhad*,[7] in which the Industrial Court held that the fact that the employer restructured its operations did not, without more, establish redundancy (a decision that was affirmed by the High Court). What mattered was whether the employee's position had genuinely ceased to be required by the employer. These principles form the foundation upon which claims of retrenchment due to technological advancement must be assessed.

Technological Advancement and the Requirement of Genuine Redundancy

Technological advancement is often cited as a modern catalyst for redundancy. This is because automation may reduce manual processes; digital platforms could consolidate administrative functions; and AI would replace repetitive tasks. Malaysian law recognises that such developments can, in appropriate circumstances, give rise to redundancy. However, the courts have been careful to insist on evidential rigour.

In *Ng Chang Seng v Technip Geoproduction (M) Sdn Bhd & Anor*,[8] the Court of Appeal acknowledged that technological advancement is a ground for retrenchment. Just;

> *"An excess of staff force could be the result of slowdown in business or the closing down of some businesses because of off-shoring or outsourcing, or the introduction of computerization and the use of artificial intelligence ("AI") and robotics or the investing in and leveraging of information technology ("IT") to reduce workers.*

At the same time in its judgement, the Court of Appeal pointed out that the burden lies squarely on the employer to prove genuine redundancy. The employer's reliance on restructuring and operational changes failed because the employee's duties continued to be performed by others and similarly placed employees were retained. The court made clear that retrenchment cannot be justified by generalised assertions of organisational change.

In the author's view, *Ng Chang Seng* is particularly relevant as employers frequently rely on broad narratives of "digital transformation" without demonstrating how technology has actually rendered specific roles redundant. Where job functions continue to exist — albeit performed using new tools or systems — the threshold of redundancy may not be met.

It is worth bearing in mind that it is not technological advancement in the workplace that would terminate employment. Redundancy does.

Procedural Fairness and Selection for Retrenchment

Even where genuine redundancy is established, the retrenchment exercise must be conducted fairly. Malaysian courts have consistently examined the process by which employees are selected for retrenchment and the steps taken to mitigate its impact.

The Code of Conduct for Industrial Harmony 1975 ("Code of Conduct") sets out the process to be adhered to in the retrenchment of employees. The Code of Conduct was an agreement reached between the then-Ministry of Labour and Manpower (now called the Ministry of Human Resource or KESUMA), the Malaysian Council of Employers' Organisation (now known as the Malaysian Employers Federation) and the Malaysian Trades Union Congress ("MTUC"). It laid down principles and guidelines for employers and workers on the practice of industrial relations to achieve greater industrial harmony. It encourages employers to explore alternatives, such as retraining, redeployment, or reduced working hours, before resorting to retrenchment.

Although not legally binding, the Code of Conduct reflects accepted industrial practice and is frequently relied upon by the Industrial Court.

6 Woo Vain Chain v Malayawata Steel Bhd [2016] 10 CLJ 176 (CA).

7 John D'Cruz v Zurich Takaful Malaysia Berhad (Award No. 1648 of 2019).

8 Ng Chang Seng v Technip Geoproduction (M) Sdn Bhd & Anor [2021] 1 MLJ 447 (CA).

In *Ng Chang Seng* (*supra*), His Lordship Lee Swee Seng JCA held that while the Code itself may not have the force of law, it is still the **gold standard** by which a company's action may be measured against to see if the whole exercise of retrenchment had been carried out *bona fide* and that every attempt had been made to explore alternatives before the termination on account of retrenchment.

Selection criteria applied for retrenchment must be objective and rational. The "Last-In-First-Out" ("LIFO") principle is commonly expected, though it is not inflexible. In *William Jacks & Co (M) Sdn Bhd v S Balasingam*,[9] the court held that departures from LIFO must be justified by cogent reasons, such as the retention of employees with special skills or qualifications.

In practice, technological retrenchment often gives rise to disputes where employers retain junior employees purportedly due to "digital skills", while retrenching senior staff without clearly articulating why such skills could not be acquired by the more senior employees through training. In the absence of clear evidence, such decisions may invite adverse inferences.

Statutory considerations also arise. Section 60N of the Employment Act 1955 requires foreign employees to be retrenched before local employees, unless valid reasons justify otherwise. Non-compliance may further undermine the legitimacy of a retrenchment exercise.

Judicial Scrutiny and Evidential Expectations

Where retrenchment is challenged, the Industrial Court will generally examine the three interrelated questions as stated in *Lilly Industries (M) Sdn Bhd* (*supra*), upon which the employer is able to justify the termination of employment for the reason of redundancy. The burden is upon the employer to prove the existence of these prerequisites and thus establish the correctness of the dismissal:

(1) whether there was genuine redundancy;

(2) whether the employer acted in good faith in the selection criteria; and

(3) whether the retrenchment was carried out fairly.

In cases involving technological advancement, courts would expect employers to adduce cogent evidence — such as updated job descriptions, workflow analyses, and reliable evidence showing how technology altered operational needs. In the absence of such evidence, claims of technological redundancy are likely to be viewed with scepticism.

The courts have also made clear that retrenchment cannot be used as a convenient mechanism to remove employees for reasons unrelated to redundancy, such as performance issues or interpersonal conflicts. Where retrenchment is found to be a sham, it may be declared a dismissal without just cause or excuse under section 20 of the IRA 1967.

Conclusion

Technological advancement is an inevitable and often necessary feature of modern business. Malaysian law recognises that such advancement may, in appropriate circumstances, justify retrenchment. However, the legal threshold is exacting. Technology is not a talisman that legitimises termination.

Employers must establish, with clear and objective evidence, that technological change has resulted in genuine redundancy. They must also ensure that retrenchment exercises are carried out in good faith and in accordance with accepted standards of fairness. Employees, for their part, remain entitled to challenge retrenchments that are inadequately justified or improperly executed.

As Malaysia continues its transition towards a technology-driven economy, the courts will play a critical role in distinguishing genuine technological redundancy from cost-driven workforce rationalisation masquerading as innovation. For practitioners, a nuanced understanding of this evolving area of law is essential.

9 William Jacks & Co (M) Sdn Bhd v S Balasingam [1997] 3 CLJ 235.

DNAA, NFA and CONSTITUTIONAL CHALLENGES:

Lessons from the Heidy Quah Litigation

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When a DNAA Is Not the End

The criminal process is commonly perceived as concluding when an accused receives a discharge not amounting to an acquittal (DNAA) and the case file is marked as "no further action" (NFA). However, this view may not be entirely accurate. A DNAA does not address the charge on its merits; rather, it pauses proceedings while maintaining the possibility of future prosecution against the accused. The litigation initiated by refugee-rights activist Heidy Quah demonstrates how this interim legal status can intersect with constitutional law, prosecutorial discretion, and the principle of legality within criminal proceedings.

Heidy Quah was charged under section 233(1)(a) of the Communications and Multimedia Act 1998 (CMA) after making a Facebook post about the alleged mistreatment of refugees in an immigration detention centre. When Heidy Quah raised a preliminary objection, the Sessions Court issued a DNAA because the prosecution insisted on proceeding with what the court deemed as a faulty charge.[1] The Attorney General's Chambers later decided there would be no further action (NFA)[2] on the matter. Heidy Quah subsequently challenged the constitutionality of section 233(1)(a) CMA, taking the issue to both the Court of Appeal and the Federal Court.

DNAA and the "Ever-Present" Risk of Prosecution

Pursuant to the Criminal Procedure Code (CPC), a discharge not amounting to an acquittal (DNAA) serves as a procedural mechanism whereby the court suspends a prosecution without rendering a definitive judgment on the accused's guilt or innocence. In contrast to an acquittal and discharge (AND) (which precludes further proceedings on the same facts except in limited circumstances), a DNAA permits the prosecution to revive or reinitiate charges at a future date.

Yet from the perspective of the accused, the distinction is far more than a technicality. A DNAA leaves the individual in a state of uncertainty, with the immediate pressures of trial lifted but the core accusation still unresolved in law. There is no set period within which the Attorney General's Chambers must choose whether to bring charges again. Without an explicit acquittal and discharge (AND), there remains the possibility that the State through the Attorney General's Chambers might at any time decide to reopen proceedings on the same facts.

In Heidy Quah's case, the Sessions Court granted a DNAA due to a defective charge that failed to specify the "offensive" communication or intent to "annoy", as required by the CPC. Since the prosecution did not amend the charge, the court ruled that continuing the trial would be in abuse of process and undermine the accused's constitutional rights.

1 "Heidy Quah granted DNAA over post on 'mistreatment' of refugees", *Sinar Daily*, 25 April 2022 (https://www.sinardaily.my/article/173757/focus/local-community/heidy-quah-granted-dnaa-over-post-on-lsquomistreatmentrsquo-of-refugees).

2 *Heidy Quah Gaik Li v Kerajaan Malaysia* [2025] 6 MLRA 439.

The DNAA served as a procedural safeguard against being prosecuted on an invalid charge; however, it did not equate to a determination of innocence regarding the accused's conduct. Additionally, in principle, the ruling did not preclude the prosecution from bringing a new, properly formulated charge based on the same Facebook post. Consequently, the protection offered by the ruling was limited: while it addressed the immediate procedural issue, the possibility of future legal action remained.

The "No Further Action" Classification

The Attorney General's Chambers marked the case as NFA, meaning no further action would be taken for now. While commonly seen as the end of a case, NFA is an internal term that can be reversed and doesn't grant legal rights to the accused.

In Heidy Quah's situation, the combination of DNAA and NFA created ambiguity: although it appeared she was cleared, legally she wasn't fully acquitted, and future prosecution remained possible.

The Court of Appeal's "Ever-Present" Risk Analysis

Against this backdrop, the Court of Appeal had to decide whether Heidy Quah was entitled to challenge section 233(1)(a) CMA on constitutional grounds. One key issue was whether, after a DNAA with an NFA classification, there remained a real and ongoing dispute or if the matter was simply academic. The court considered this point, noting the ongoing charge and the possibility of future prosecution.[3] It determined that Heidy Quah indeed had standing to contest matters affecting her constitutional rights, since the threat of prosecution was always present or that there existed an "ever-present" risk.

The Court of Appeal, in recognising the ongoing risks associated with a DNAA, effectively acknowledged that criminal proceedings can have enduring effects on an accused individual. Stigma arising from unresolved allegations, the potential for future arrest, and the impact these processes may have on fundamental rights are all direct consequences when a DNAA is coupled with an NFA. The Court of Appeal appeared to view these outcomes as substantial grounds for legal standing, rather than regarding them as hypothetical concerns. (It ought to however be noted that the Federal Court in The Government of Malaysia v. Heidy Quah Gaik Li [2026] 3 CLJ 677 later observed that "there was no basis for the Court of Appeal to conclude that there was a real threat for the respondent to be charged again in the future under s. 233(1)(a) of the CMA").

Practical Implications for Criminal Defence and Prosecution

The Heidy Quah decisions highlight that a DNAA should not be used as a default when prosecution is difficult. Defence counsel may consider advocating for an acquittal if the prosecution's case has failed or the charge is flawed. Ideally, Prosecutors ought to only seek a DNAA when re-prosecution is genuinely possible, and not in attempts to maintain leverage. The "ever-present" risk highlights the need to review whether the current DNAA framework aligns with the presumption of innocence and legal certainty. This raises questions about introducing time limits, presumptions favouring acquittal after NFA, or clearer criteria(s) for DNAA decisions.

Criminalising Online Speech — Re-reading Section 233 CMA After the Federal Court's Landmark Decision for Heidy Quah

The proceedings in respect of Heidy Quah's Facebook post alleged mistreatment at an immigration detention centre were pursuant to section 233(1)(a) CMA. She was charged for posting "offensive" content with intent to "annoy," sparking a constitutional challenge that argued the law is vague, too broad, and conflicts with freedom of speech under Article 10(1)(a) of the Federal Constitution.

The High Court's Restrictive Approach

In Heidy Quah's constitutional challenge, the High Court took a rather limited approach, deciding that the disputed wording was sufficiently clear when considered in context. It also found that claims of vagueness or being overly broad did not meet the standard required for constitutional invalidity.[4]

The Court of Appeal's Robust Constitutional Critique

On appeal, the Court of Appeal undertook a detailed examination of the terms "offensive" and "annoy,"

3 *Heidy Quah Gaik Li v Kerajaan Malaysia* [2025] 6 MLRA 439, para 13.

4 *Heidy Quah Gaik Li v Kerajaan Malaysia* [2025] 6 MLRA 439, paras 5–8.



referencing Article 10 of the Federal Constitution and the principle of proportionality.[5] The Court highlighted that criminal penalties represent one of the most significant forms of governmental intrusion into freedom of expression and accordingly should be reserved for actions that present an authentic threat to public order[6] or substantially infringe upon the rights of others. The Court further determined that mere irritation or displeasure experienced by an individual[7] is insufficient to warrant the application of criminal liability.

The Court of Appeal noted that the terms "offensive" and "annoyed" are subjective and, without clear legal definitions, could lead to arbitrary or selective enforcement. As a result, the court found the prohibition on "offensive" communications intended to "annoy" unconstitutional[8] because it was overly broad and disproportionate under Article 10(2)(a) of the Federal Constitution.

The Federal Court's Recalibration

The Federal Court did not fully support the Court of Appeal's broad decision to strike down the contested terms. Rather, it aimed to find a balance between safeguarding freedom of expression and enabling Parliament to criminalise truly harmful online behaviour.

The highest court recognised that statements which simply annoy or offend individuals generally should not be considered threats to public order warranting criminal penalties. Nonetheless, it maintained that criminal responsibility should remain for communications that surpass a specific level of harm.

The Federal Court interpreted the terms "offensive" and "annoy" narrowly, underscoring that their meaning should be understood within the context of public order and the prevention of significant harm, such as persistent harassment, incitement to self-harm, or communications constituting doxxing and targeted vilification. Accordingly, section 233(1)(a) is not intended to serve as a broad mechanism for regulating criticism, satire, or uncomfortable opinions expressed online, even when such content may cause distress to individuals or authorities.

Consequences for Future Prosecutions

This reinterpretation of section 233(1)(a) CMA has significant implications for criminal prosecutions. The evidential and legal standards required of the prosecution in cases concerning "offensive" or "annoying" communications have become more stringent. It is no longer adequate to demonstrate that a complainant felt personally offended or irritated; there must now be clear evidence of harm or a risk to public order, or an objectively serious instance of harassment. This development also necessitates a reassessment of charging practices and internal guidelines, such that section 233(1)(a) CMA should be reserved for matters with demonstrable evidence of serious harm or menace, rather than being used as a broad instrument for speech deemed unwelcome or controversial.

Furthermore, it encourages trial courts to examine charges with greater rigour, starting from the framing stage, to ensure that the alleged conduct falls within the constitutionally valid scope of the offence. From the perspective of the defence, the Federal Court's analysis offers grounds to contest charges that are primarily based on individual dissatisfaction or political sensitivities, rather than any substantive public-order issue.

5 *Heidy Quah Gaik Li v Kerajaan Malaysia* [2025] 6 MLRA 439, para 27.
6 *Heidy Quah Gaik Li v Kerajaan Malaysia* [2025] 6 MLRA 439, para 33.
7 *Heidy Quah Gaik Li v Kerajaan Malaysia* [2025] 6 MLRA 439, para 49.
8 *Heidy Quah Gaik Li v Kerajaan Malaysia* [2025] 6 MLRA 439, para 128.

Beyond Long Hours:
Understanding Burnout, Secondary Trauma, and Mental Health Risks in Legal Practice

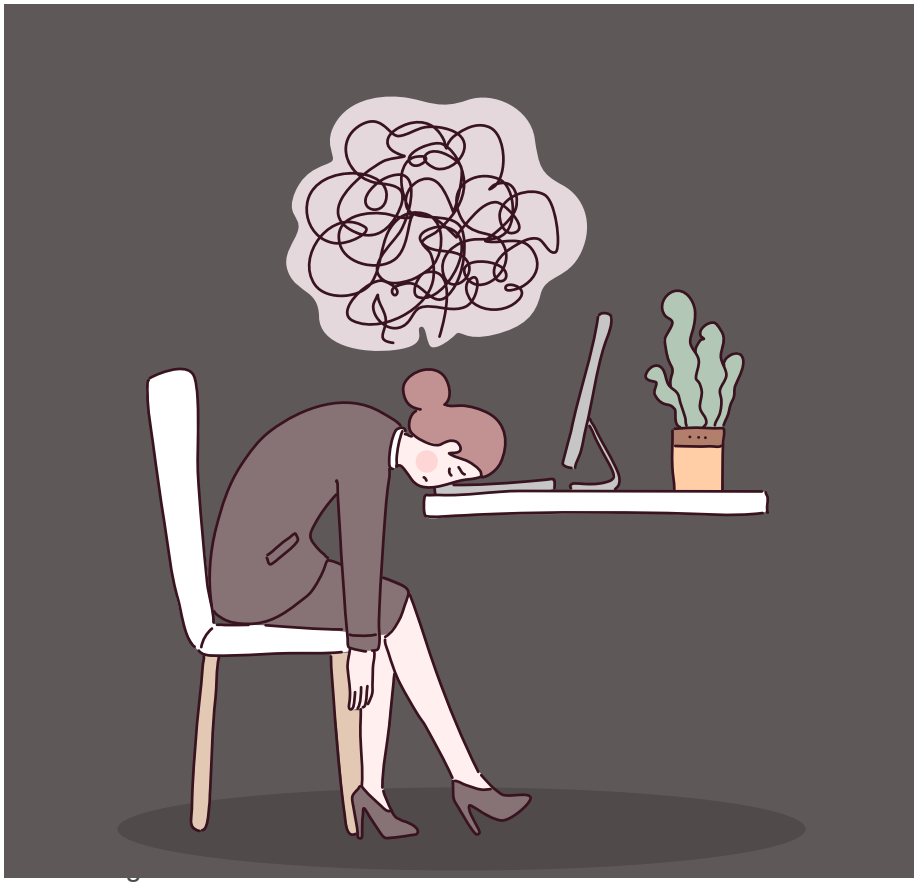
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The legal profession is unique when compared to other professions in that the central nature of the work deals with disputes. Words synonymous with dispute include disagreement, argument, win-lose competition, conflict and resistance, among others. This adversarial nature of the profession raises the stress levels in the legal environment compared to other professions that seem more collaborative in nature.

Clients who engage legal assistance also have a certain make-up. They tend to be hurt, angry, unhappy and wanting justice to be served as soon as possible. This suggests the expectation for the lawyer and team to respond to their needs and wants accordingly. Many work long hours to create arguments to defend their clients' cases and perspectives, with winning at all costs as their central goal.

A recent article from *The Star* online, titled "***Facing fatigue frenzy"***[1] focused on the long hours and lack of work-life balance that contribute to this high-stress work environment. This is further encouraged by the Malaysian work culture, which glorifies working long hours as commendable and a sign of commitment to the organisation, work environment and competence. Many young lawyers are torn between the need for work and financial stability, and they struggle with work-life balance. Lacking clear boundaries and this underlying belief that drives a person to work can result in burnout, mental disorders such as anxiety and depression, and breakdown in personal and family life. Many lawyers face clients who are emotionally distressed, as observed when they are crying or shouting or pacing.

1 "Facing fatigue frenzy", *The Star*, 22 November 2025 (https://www.thestar.com.my/news/nation/2025/11/22/facing-fatigue-frenzy).



put-down comments regarding their competence from officers in the court, including judges. These strategies for coping with stress by holding one's emotions, numbing feelings and holding one's head up high in these toxic situations eventually pile up and can lead to burnout and breakdown.

Lawyer burnout statistics[2] supports the findings from an article titled "The Psychological Challenges Lawyers Face"[3]

You may ask why some people are able to cope, while others can't? Each person has a different tolerance level based on their early developmental years. With generations after the baby boomers, the tolerance level seems to be decreasing where burnout and breakdown are shown to be higher.[4] The rise in information communication technology may also be a factor that feeds the need for faster results and longer working hours compared with the time of the boomers, when snail mail was used to deliver information and communication.

How does this impact the psychological well-being of those in the legal profession? Lawyers are constantly faced with chronic stress that keeps them on the edge, feeling mentally and emotionally drained. There are also impacts of secondary trauma where high empathy creates identification with clients' pain, which drives the lawyer towards defending their clients from an emotional perspective, rather than an objective one.

The stigma of seeing a psychologist or psychiatrist is still very high in Malaysia. As a result, those who do seek such support are often those who are under very severe condition, with a breakdown in progress. The psychologist is the first line of assessment to understand the severity of the breakdown. For most people who have personal resources and good family and friend support, working with a therapist (counsellor or psychologist), who may use different psychosocial or theoretical models to assess and support therapeutic interventions in a private and confidential space, helps to build strength and manage stress better. However, if the degree of breakdown is more severe and impacts sleep, or leads to addictive behaviours and shows signs of anxiety, depressive or psychotic symptoms, this will require medication support that is provided by a psychiatrist (who is a trained medical doctor). So, just as a person heads to the clinic for a cough and cold, it is helpful to seek therapeutic support to address life stressors and maintain one's mental and emotional health.

Stress that builds up to burnout and breakdown, both physically and mentally, is related to personal strategies each person learns while growing up. By the time a young lawyer begins working, they have already formed personality traits that support coping strategies. So, when a person is unable to form

2 Lawyer Burnout Statistics, Gitnux.org, 7 January 2026 (https://gitnux.org/lawyer-burnout-statistics/).

3 "Psychological Impact of Being a Lawyer: Burnout and Mental Health", Psychology.org, 16 December 2024 (https://psychologyorg.com/psychological-impact-of-being-a-lawyer/).

4 "Malaysia's struggle with stress and burnout", *The Star* (https://cdn.thestar.com.my/Content/Images/main_ahb_kjtburnoutemployer181125_2_202511220748.jpg).



clear boundaries and takes on secondary trauma of the client by being empathetic, this is an unhealthy coping strategy that can lead to burnout. As much as talking with family and friends is helpful in making us feel better, working with a therapist to discover the underlying coping strategies of the individual, which may be learned behaviours or modelled behaviours, is more than helpful. Awareness of our coping mechanisms and strategies allows for conscious choices to be made and better boundaries to be maintained in managing burnout and breakdown. Breakdown can be physiological, such as high blood pressure and breathing difficulties; mental, such as anxiety, depression or psychosis; or behavioural, such as addictions and scrolling on social media. To some, these are seen as relaxing without understanding that they may actually be negative coping strategies leading to burnout and breakdown. At times, family and friends might give advice that supports a negative coping strategy, and without a deeper understanding and awareness of the individual's inner motivation, this may not be helpful.

There are many stress management techniques, such as deep breathing, relaxation, and engaging in a variety of activities, such are popularly known. These are all very helpful to calm the system, but it does not help with awareness of maladaptive strategies that require changes. The best way to develop an understanding of one's inner motivations and developmental strategies for coping and managing oneself is to work with a therapist (counsellor or psychologist). A good therapeutic relationship that feels safe and secure for expressing oneself helps identify specific strategies that aid personal growth.

I would advise lawyers who find their clients over-emotional or confused in their thoughts and ability to make decisions to refer them to a therapist for support. This would help clients get a better understanding of their situation of conflict and bring them to a calmer space where they can make better decisions for their future. But even better than referring clients to a therapist, is for the lawyer himself / herself, who finds his/her client stressful and the case management challenging, to seek therapeutic support for themselves. Working with a therapist will help calm the emotional and mental stress of the lawyer in a safe and confidential space. A calmer lawyer will be able to manage the case more effectively with better strategies towards conflict resolution.

Finally, in the field of collaborative law practice which is currently very new in family law practice, working with a neutral mental health practitioner in collaboration with two-parties — lawyers and clients — has proven to manage stress and conflict better as all parties are supported in this space and work together individually as well as collaboratively in a team to ensure a positive, harmonious outcome ensuring a long term future that is in everyone's best interest.

Every Step Matters:
Running for Freedom, Health, and Human Dignity

Written by
Ranjan Paramalingam
Advocate & Solicitor

The World's Oldest Human Rights Organisation

I first heard of Anti-Slavery International when I read about it under its previous name The Anti-Slavery Society of London in *Time* Magazine in 1967. I have been a member of it for many years.

It was founded in 1839 and is the world's oldest human rights organisation. It is dedicated to fighting slavery and forced labour in various forms, of which I give some examples: slaves as spoils of war, including sale by public auction, in recent times; forced prostitution; forced marriage; bride abduction; child labour; child soldiers; debt slavery; and bonded labour.

An early message from Anti-Slavery International showed a picture of a slave with the words "Am I not a man and a brother?"

A Heartbreaking Case in Malaysia

I read of the case of *Wong Lai Fatt v P.P.* [1973] 2 MLJ 32 in a newspaper and in the *Malayan Law Journal* and have been haunted by it since then. It involved a loan shark who had forced a young woman into prostitution so that she could repay her husband's debt. After the debt had been repaid, the loan shark and two other men visited the couple at home seeking to have her continue as a prostitute. When the couple refused, the loan shark dragged the wife into a bedroom and tried to rape her. Her husband picked up a meat chopper from the kitchen and slashed the loan shark to death.



PHOTO CREDIT National Museums Liverpool

At trial for murder, the husband was convicted and sent to prison upon his plea of guilt to a lesser charge of culpable homicide offered by the prosecution and upon the advice of counsel. But there was a complete defence to the charge of murder, defence of a woman from rape! Counsel Mr R C Hoffmann, now deceased, took over and heroically and successfully argued an appeal before the Federal Court because of the grave injustice visited upon the husband by everyone concerned during the committal proceedings and the trial. When freed, the husband wept.

Idealism and Humanitarianism

In 1977, I felt inspired by the great advocate, now deceased, Raja Aziz Addruse, when he said during the Malaysian Law Conference that, when seeking justice, we must have idealism.



PHOTO CREDIT Academy of Family Physicians of Malaysia

I have also been inspired by the examples set by my mentors — a distinguished doctor, the late Dr M K Rajakumar (*right*) and a now retired corporate lawyer, Khaw Yew Mei.

Dr Rajakumar was remarkable for his contributions to such fields as medicine, education, medical ethics, politics, and public policy from his time as a student at the University of Malaya in Singapore. He made a big contribution to my education as a medical lawyer and ethicist. In his memory, I endowed the Yong Loo Lin School of Medicine of the National University of Singapore and the Faculty of Medicine of the University of Malaya in Kuala Lumpur each with parallel M K Rajakumar Prizes in Medical Ethics.

A number of doctors were found guilty of war crimes and crimes against humanity at the Nuremberg War Crimes Tribunal at the end of the Second World War in regard to their cruel treatment of prisoners and others who were the victims of slavery and forced labour under the Nazi regime. Some of them were hanged and some were imprisoned. A number of judges and legal officials too were found guilty of such crimes at the subsequent Judges Trials and were hanged or imprisoned.

Incidentally, under the Courts of Judicature Act 1964, in Malaysia, judges do not have absolute immunity. They have no immunity when acting without goodfaith.

Yew Mei had taught me about proper professional practice and conduct from the time I was a junior lawyer. She was often available to lend me a helping hand when I needed advice and assistance from her. To this day, she is willing to rebuke me, always sincerely and in good faith, whenever she thinks that I am in the wrong, but despite the faults that she has perceived in me, she has remained a true friend. She remains active in service to the community.

My Annual 10-Kilometre Run for Freedom

Guided by the principles of idealism and humanitarianism that I was taught, I gravitated towards doing more for Anti-Slavery International. I have written and spoken about the continuing war against slavery and forced labour. For the benefit of Anti-Slavery International, including raising awareness of its work and raising funds for it, I have so far undertaken four Annual Runs for Freedom (10 kilometres each, non-stop), accompanied at times by two of my sons and my lawyer friend Cherian Kuruvila. My life has been enriched as a result. I intend to undertake a fifth and final Run next year, after which I hope to see others continuing with the Runs, for which I intend to give my support.

The area where I live and have been undertaking training exercises, and the Runs themselves, were once the Damansara Estate. It was developed into the Damansara Heights housing area more than 50 years ago. As I run in the area, I tread the ground upon which estate workers had toiled in appalling conditions many years ago. An emotional experience. In this regard, I owe a lot to my friend Carl Vadivella Belle of Australia, who, in such books as Tragic Orphans, has written extensively on the history of Indian estate workers in Malaysia.

Slavery and Forced Labour in Malaysia

Slavery and forced labour continue to blight our lives. Recent news reports from Malaysia have contained such words in regard to the treatment of vulnerable people in Malaysia.

During the Second World War, the Japanese military forced women in this country into sexual slavery for the pleasure of their officers and men (they used a euphemism, “comfort women”). Two men who were within my extended family were amongst those who were taken as civilian prisoners by the Japanese to work on the Death Railway in Thailand (they managed to survive).

How I Took Up Long-Distance Running





PHOTO CREDIT Ranjan Paramalingam

I am no sportsman. I took up long-distance running at the age of 70 years in 2021 when I became a member of my firm's team in the Bar Fitness Challenge, recording a total of 150 kilometres out of the required grand total of 600 kilometres in 30 days. And we won a prize! Feeling encouraged, I have also undertaken long-distance running in Australia for causes such as the Canberra Times Fun Run and the Australian Heart Foundation's fundraising campaign. I did so with support from my family and friends, after consulting doctors and a gym instructor, and after reading literature on long-distance running.

Health Benefits of Long-Distance Running

I have gained great benefits from long-distance running, such as better physical, mental and emotional health; better sleep; and a greater ability to engage in meaningful activities. However, one must guard against suffering injuries and illness. It has been said that you cannot outrun a bad diet. Rest and relaxation are important because excessive exercise can be harmful. And consult doctors and physical fitness instructors often enough.

The War Must Continue

Everyone is at risk of becoming a victim of slavery and forced labour. Political, social and economic upheavals and war can lead even comfortably established people into slavery and forced labour if their lives were to fall into hopelessness. The war against these evils must continue.



Amir Hariri bin Abd Hadi v Public Prosecutor [2025] 4 MLJ 807:

Judicial Severance of an Unconstitutional Measure from a Constitutional Aim



Written by
Abraham Au,
Advocate & Solicitor

I. The Poser

Every person has the right to say what he thinks, to share information and to demand for a better world. The existence of such a right is hardly disputed ever since its formal recognition under the Universal Declaration of Human Rights ("UDHR") and further made legally binding in approximately 175 countries that have ratified the International Covenant on Civil and Political Rights ("ICCPR").

The developing landscape of the modern world further recognises that the right to freedom of speech does not stop with the individual. It extends concomitantly to the right of the people to peacefully combine in public places for the purposes of expressing opinions and of protest against political decisions. These freedoms reflect the importance our society places on open discussion and the search for truth, the need for diversified opinions to be known and for the strengths and weaknesses of those opinions to be identified, the right to criticise, the value of tolerance of the opinions of others, and the social commitment to the value of individual autonomy, all vital to the health of any democratic system of open government.[1]

In Malaysia, these rights are respectively guaranteed under Article 10(1)(a) and 10(1)(b) of the Federal Constitution. Articles 10(1)(a) and (b)[2] read as follows:

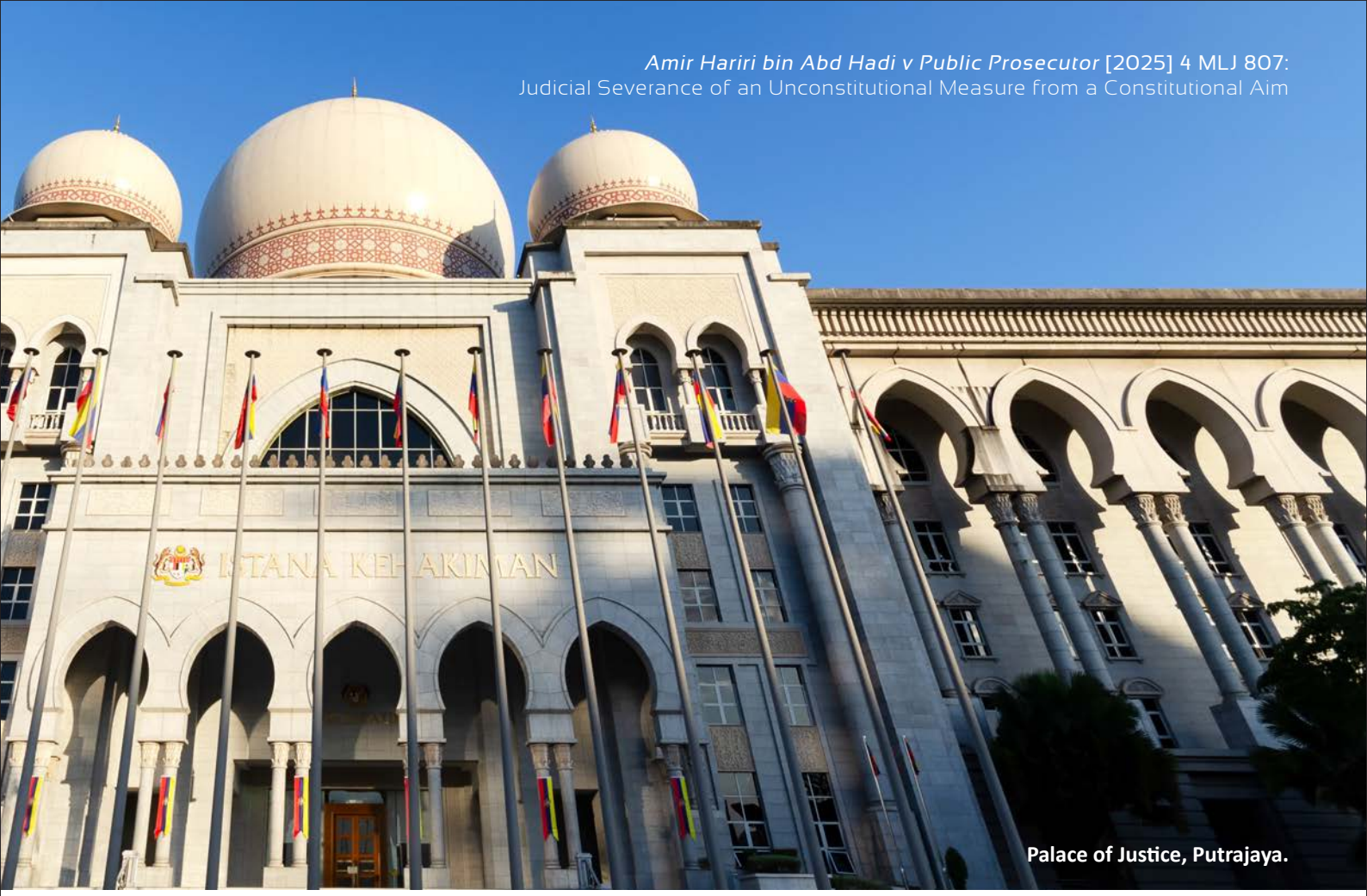
> *10 Freedom of speech, assembly and association*
>
> *(1) Subject to Clauses (2), (3), (3A) and (4)—*
> *(a) every citizen has the right to freedom of speech and expression;*
>
> *(b) all citizens have the right to assemble peaceably and without arms;*

However, these guarantees are immediately qualified in the succeeding subclause (2):

> *(2) Parliament may by law impose—*
> *(a) on the rights conferred by paragraph (a) of Clause (1), such restrictions as it deems necessary or expedient in the interest of the security of the Federation or any part thereof, friendly relations with other countries, public order or morality and restrictions designed to protect the privileges of Parliament or of*

1 *Watson v Trenerry* (1998) 122 NTR 1, per Angel J at pages 11–12.

2 Articles 10(1)(a) and (b) of the Federal Constitution.



Palace of Justice, Putrajaya.

any Legislative Assembly or to provide against contempt of court, defamation, or incitement to any offence;

(b) on the right conferred by paragraph (b) of Clause (1), such restrictions as it deems necessary or expedient in the interest of the security of the Federation or any part thereof or public order …

Over the years, Parliament has, relying on these qualifications, enacted laws that either negate these rights or restrict these rights by subjecting them to further conditions. Examples of such laws are the Printing Presses and Publications Act 1984, the Public Order (Preservation) Act 1958, the Penal Code (eg sections 298, 499, 504 and 505), the Communications and Multimedia Act 1998 (eg section 233), the Official Secrets Act 1972 and the Police Act 1967. This power extends further to the continued use of pre-Merdeka laws, such as the Sedition Act 1948 that continue to be in force post-Merdeka by virtue of Article 162 of the Federal Constitution.[3]

Courts in the past have consistently grappled with the debate as to whether it is constitutionally empowered to strike down laws on the basis that such a law is unjust or unfair. The general consensus to the question appears to be in the negative — an affirmation of the proposition that the basic constitutional duty of the courts in relation to enacted laws is merely to interpret and apply them;[4] and

> *"those who find fault with the wisdom or expediency of the impugned Act, and with vexatious interference of fundamental rights, normally must address themselves to the legislature, and not the courts; they have their remedy at the ballot box.*[5]

The constitutional grapples continues to this day.

On 1 July 2025, a five-member panel of the Federal Court, chaired by the then-Chief Justice, YAA Tun Tengku Maimun binti Tuan Mat, unanimously struck down as unconstitutional and null and void, a provision in the Peaceful Assembly Act 2012 ("PAA"). The impugned provision was section 9(5) of the PAA,

3 *Public Prosecutor v Azmi bin Sharom* [2015] 6 MLJ 751 at [16]–[27].

4 *Letitia Bosman v Public Prosecutor and other appeals (No 1)* [2020] 5 MLJ 277.

5 *Loh Kooi Choon v Government of Malaysia [1977] 2 MLJ 187.*

which imposed criminal sanction on any organiser who fails to comply with a statutory requirement to give a five-day notice to the police before holding an assembly in a public place.[6] This short article dissects the judicial approach of this landmark decision and examines the body of theories behind the power of the courts to strike down a law on the basis that it violates constitutional safeguards, whilst at the same time not questioning legislative policy.

II. The Facts

The applicant, Amir Hariri, is the secretary general of a political party known as the Malaysian United Democratic Alliance ("MUDA"). In August 2022, it was widely reported that the defence ministry had in 2011 awarded a RM9 billion contract to Boustead Naval Shipyard Sdn Bhd for six littoral combat ships as part of the Royal Malaysian Navy's fleet renewal plan. However, the ships were never delivered, and the project had apparently failed ("LCS Scandal"). On 14 August 2022, in the wake of the said scandal, Amir Hariri organised a gathering at Sogo Complex on Jalan Tuanku Abdul Rahman. The rally took place at about 2:00 pm where 60 individuals, comprising members of non-governmental organisations, university students and politicians, made speeches, calling for a transparent investigation into the scandal. The rally ended peacefully with a positive note of hope that something would be done and that the persons involved in the LCS Scandal would be brought to justice.

Alas, on 26 August 2022, Amir Hariri found himself instead facing criminal prosecution for allegedly committing an offence under section 9(1) of the PAA, punishable under section 9(5) of the same Act. The charge as framed under the impugned provision essentially means that merely because he, as the organiser of the rally, had failed to give the requisite five days' notice to police, he was now to be held criminally liable solely for the reason, without more. This is notwithstanding the fact that the assembly went on peacefully and without a tinge of violence.

III. The Conflicting Court of Appeal Decisions in *Nik Nazmi* and *Yuneswaran*

Before the trial could commence, Amir Hariri filed an application pursuant to section 30(1) of the Courts of Judicature Act 1964 in the Magistrates' Court for the records in his case to be transmitted to the High Court, as there exists a question as to the effect of any provision of the Federal Constitution. The application was allowed by both the Magistrates' Court and the High Court, and a special case was framed pursuant to section 84 of the Courts of Judicature Act 1964, so that the matter may be determined immediately by the Federal Court.

The applications before the Magistrates' Court and the High Court were allowed on the premise that a decision of the Federal Court was dearly required to resolve a conflict between two decisions of the Court of Appeal almost contemporaneously decided. The first is the decision of the Court of Appeal in *Nik Nazmi Nik Ahmad v Public Prosecutor* [2014] 4 MLJ 157 (*"Nik Nazmi"*) (decided on 25 April 2014, per Mohamad Ariff Yusof JCA, Mah Weng Kwai JCA, and Hamid Sultan Abu Backer JCA) having struck down section 9(5) of the PAA as being unconstitutional; while the Court of Appeal in *Public Prosecutor v Yuneswaran a/l Ramaraj* [2015] 6 MLJ 47 (*"Yuneswaran")* (decided on 1 October 2015, per Raus Sharif PCA, Mohd Zawawi Salleh JCA, and Zamani A Rahim JCA) having decided the same provision to be valid and constitutional.

Nik Nazmi

The Court of Appeal in *Nik Nazmi* in separate judgements penned individually by all three justices declared section 9(5) of the PAA as unconstitutional, null and void. The Court of Appeal in coming to its decision adopted the "reasonableness test" as a barometer for constitutionality. The reasonableness test came about as a result of a quartet of cases[7] that adopted an expansive and prismatic interpretation of Article 8 of the Federal Constitution (or better known as the equality clause). These court decisions expounded the legal thesis that equality is

> *"a dynamic concept with many aspects and dimensions and it cannot be imprisoned within traditional and doctrinaire limits*.

The traditional approach to Article 8(1) is the doctrine of rational classification as famously adopted by the court in Datuk Hj Harun bin Hj Idris v PP [1977] 2 MLJ 155. However, a purposive interpretation of

6 Section 9(1) of the PAA 2012.

7 *Tan Tek Seng v Suruhanjaya Perkhidmatan Pendidikan & Anor* [1996] 1 MLJ 261 (CA) (*"Tan Tek Seng"*); *Dr Mohd Nasir Hashim v Menteri Dalam Negeri* [2006] 6 MLJ 213 (CA) (*"Dr Nasir"*); *Lee Kwan Woh v Public Prosecutor* [2009] 5 MLJ 301 (FC) (*"Lee Kwan Woh"*); *Sivarasa Rasiah v Badan Peguam Malaysia* [2010] 2 MLJ 333 (FC) (*"Sivarasa"*).

Article 8(1) opens a new dimension to the equality clause — it strikes at arbitrariness in State action and ensures fairness and equality of treatment. The principle of reasonableness is an essential element of equality that pervades Article 8 like a "brooding omnipresence", and hence any State action must answer the test of reasonableness in order to be in conformity with Article 8. This would expose

> "*any arbitrary action, whether in the nature of a legislative or administrative or quasi-judicial exercise of power to a violation of Article 8.*[8]

For that reason, the Court of Appeal in *Dr Nasir* held that the Parliament, whilst having the constitutional power to impose restrictions under Article 10(2) against the rights guaranteed under Article 10(1), cannot do so arbitrarily. The word "reasonable" must therefore be read into the sub-clauses of Article 10(1).[9] This approach was cemented by the Federal Court in *Sivarasa*, formulating the following question as a summation of the reasonable test:

> "*Is the state action alleged to violate a fundamental right procedurally and substantively fair?*[10]

This precise approach was adopted by the Court of Appeal in *Nik Nazmi*, and hence the reasonableness of the restrictions imposed on the right to freedom of peaceable assembly has to be tested according to this legal standard. The Court of Appeal undertook a detailed scrutiny of the scheme and ambit of the PAA and found that the restriction imposed under section 9(5) of the PAA was unreasonable. This was because there is nothing in the PAA that could potentially render a peaceful assembly unlawful, even when prior notice is not given by the organiser.[11] The conceptual disconnect between an otherwise lawful assembly and a criminal punishment imposed for the want of notice makes the latter an unreasonable restriction. The anomaly of the criminal sanction was also highlighted by Justice Mah Weng Kwai in his supporting judgement, where His Lordship observed the irony that



> "*whilst citizens can lawfully take part in a spontaneous or urgent assembly, an organiser cannot be seen to organise one without breaching the law*,

should there be short notice on the part of the organiser.[12] This makes it impossible for any spontaneous or urgent assembly to be held, since no organiser can ever organise an assembly to be held within ten days even if he gives notice without running afoul of the law.[13]

Yuneswaran

Approximately a year and a half later, the Court of Appeal on 1 October 2015 delivered a decision in *Yuneswaran* that effectively departed from the position in *Nik Nazmi*, not only on the subject matter itself, but also on the jurisprudential approach in determining legislative constitutionality. A frontal assault was made by the Court of Appeal on the decision of *Sivarasa* on the formulation of the reasonableness test, declaring the same as *"merely obiter"*.[14] Instead, *Yuneswaran* took the position that the restrictions that may be imposed by Parliament are imposed without further qualification as to whether they are reasonable or not.

The Court of Appeal's underlying rationale stemmed from the pre-Merdeka legislative drafts in the Reid Commission report. The original text of Article 10(2) of the draft Federal Constitution had the word "reasonable" before the word "restrictions". However, following a note of dissent written by a member of the Reid Commission, Justice Abdul Hamid of Pakistan,

8 *Tan Tek Seng* at pages 283–285.

9 *Dr Nasir* at [9].

10 *Sivarasa* at page 346.

11 *Nik Nazmi* at page 177, per Ariff Yusof JCA

12 *Nik Nazmi* at page 184, per Mah Weng Kwai JCA.

13 *Nik Nazmi* at page 189, per Mah Weng Kwai JCA.

14 *Yuneswaran* at page 74.

the word "reasonable" was removed and no longer surfaced in Article 10(2) of the Federal Constitution as it presently stands. Justice Abdul Hamid, in his note of dissent,[15] opined that

> *"legislation should not be challengeable in a court of law on the ground that the restrictions are not reasonable*,

and that the Legislature alone should be the judge of what is reasonable under the circumstances. The conflict between the views of the Legislature and the views of the court on the reasonableness of the restrictions, must be avoided. The working committee adopted Justice Abdul Hamid's dissent and adopted his recommendation by removing the word "reasonable" from the provisions of the proposed draft.

The Court of Appeal held this to be the legislative intent of Article 10(2), and hence, the reasonableness test cannot be accepted as a barometer for constitutional validity. The Court of Appeal held that this

> *"eliminated the possibility of judicial review concerning the reasonableness of laws which infringed the rights granted by Art 10 of the Federal Constitution*.[16]

Instead, the Court of Appeal fell back to the restrictive approach previously endorsed by the Supreme Court in *Public Prosecutor v Pung Chen Choon* [1994] 1 MLJ 566 (a case challenging the constitutionality of the Printing Presses and Publications Act 1984), where the Supreme Court held that in Malaysia,

> *"when infringement of the Right of freedom of speech and expression is alleged, the scope of the court's inquiry is limited to the question whether the impugned law comes within the orbit of the permitted restrictions*.

The question of whether it is reasonable does not arise, and the law would be valid.

The Court of Appeal held the provision to be constitutional since the criminal sanction under section 9(5) of the PAA falls within one of the permissible grounds in which restrictions may be imposed under Article 10(2)(b) — public order.[17] The requirement for prior notice in advance is crucial and reasonable to enable the police to make the "necessary plan and preparation" to satisfy their legal obligation under the PAA, particularly to facilitate the lawful exercise of one's right to assemble peaceably as well as to preserve public order and protect the rights and freedoms of other persons. On account of the principle in *Pung Chen Choon*, the law is valid; and nothing further needs to be discussed.

IV. Subsequent Negation of the Reasonableness Test and Prevalence of the Proportionality Test

The conflict between the Court of Appeal decisions in *Nik Nazmi* and *Yuneswaran* ensued since, pursuant to established legal principles on *stare decisis*, lower courts are free to choose which of the two conflicting Court of Appeal decisions to follow, irrespective of the dates of the decisions.[18] Some notable High Court decisions, such as Mohd Rafizi Ramli & Anor v PP [2016] 7 CLJ 246, have chosen to follow *Yuneswaran*.

Azmi Sharom

Subsequent apex court decisions have further affirmed *Pung Chen Choon* and conversely rejected the reasonableness test. In *Public Prosecutor v Azmi bin Sharom* [2015] 6 MLJ 751 (*"Azmi Sharom"*) a case where the constitutionality of the Sedition Act 1948 was challenged, the Federal Court referred once again to the legislative history of Article 10(2), and endorsed the view that since the word "reasonable" was omitted from the final draft by the Working Committee of the Reid Commission, the reasonable test no longer applies.[19] To that extent, *Sivarasa* was overruled by the Federal Court.

However, and very interestingly, the Federal Court in *Azmi Sharom* recognised that the reasonableness test was not the only constitutional barometer propounded by the Federal Court in *Sivarasa*. The Federal Court effectively severed from the reasonable test a distinct formulation that it retained from the case of *Sivarasa*; known as the proportionality test. The Federal Court endorsed the position that *"the restriction that may be imposed by the Legislature under Art* 10(2) is not without limit; and that any law promulgated under art 10(2) must pass the proportionality test in order

15 *Yuneswaran* at page 73.

16 *Yuneswaran* at page 74.

17 *Yuneswaran* at page 69.

18 *Subramaniam NS Dhurai v Sandrakasan Retnasamy & Ors* [2005] 6 MLJ 120 (CA).

19 *Azmi Sharom* at [36].

to be valid". The proportionality test encompasses trio considerations, i.e. whether: (i) the legislative objective is sufficiently important to justify limiting a fundamental right; (ii) the measures designed to meet the legislative objective are rationally connected to it; and (iii) the means used to impair the right or freedom are no more than is necessary to accomplish the objective.[20]

Interestingly, previous decisions (for eg in *Nik Nazmi*) did not clearly demarcate the application of these two tests and often consider the same concurrently in determining legislative constitutionality. Nonetheless, taking a step back and embarking on a re-examination of the quartet of cases in *Tak Tek Seng*, *Dr Nasir*, *Lee Kwan Woh* and *Sivarasa*, it is unambiguously evident that both the reasonable test and the proportionality test share the same origin — Article 8 of the Federal Constitution. *Dr Nasir*, for instance, in no uncertain terms, held that

> "*It must also bear in mind the principle of substantive proportionality that art 8(1) imports (see Om Kumar v Union of India AIR 2000 SC 3689*).

In the same vein, the Federal Court in *Sivarasa* held that

> "*it is clear from the foregoing discussion that the equal protection clause houses within it the doctrine of proportionality*.

Sivarasa went on to adopt the formulation made by the United Kingdom House of Lords in *R v Secretary of State for the Home Department, ex parte Daly* [2001] UKHL 26, that all forms of state action — whether Legislative or Executive — that infringe a fundamental right, must (a) have an objective that is sufficiently important to justify limiting the right in question; (b) the measures designed by the relevant state action to meet its objective must have a rational nexus with that objective; and (c) the means used by the relevant state action to infringe the right asserted must be proportionate to the object it seeks to achieve.

Crystallisation of the Proportionality Test

Following *Azmi Sharom*, subsequent Apex Courts have consistently adopted the proportionality test as the new constitutional barometer. Examples of these cases are *Public Prosecutor v Gan Boon Aun* [2017] 3 MLJ 12,[21] *Alma Nudo Atenza v Public Prosecutor and another appeal* [2019] 4 MLJ 1,[22] *Zaidi bin Kanapiah v ASP Khairul Fairoz bin Rodzuan and other cases* [2021] 3 MLJ 759,[23] *Dhinesh a/l Tanaphll v Lembaga Pencegahan Jenayah & Ors* [2022] 3 MLJ 356,[24] *Lai Hen Beng v Public Prosecutor* [2024] 1 MLJ 225,[25] and *Ketheeswaran a/l Kanagaratnam & Anor v Public Prosecutor* [2024] 1 MLJ 851.[26]

Notably in *Alma Nudo* (a case where a nine-member panel of the Federal Court struck down a provision allowing for double presumption in the Dangerous Drugs Act 1952), the Federal Court firmly established that the proportionality test lies at the heart of our constitutional jurisprudence in determining legislative validity. The test was not formulated in abstract, but the origin of the same is once again traced back to the judicial interpretation of Article 8 explored in the quartet of cases (*Tan Tek Seng, Dr Nasir, Lee Kwan Woh, Sivarasa*)[27]. The Federal Court described Article 8 as *"the humanising and all-pervading provision"* that has a trickle-down effect in interpreting all other constitutional provisions — this invariably includes Article 10 and the kind of restrictions that may be imposed by Parliament under Article 10(2) that are constitutionally justified.

20 *Azmi Sharom* at [41]–[42].

21 *Gan Boon Aun* at 39–40 [26]–[30], 48 [42], [46]–[47].

22 *Alma Nudo* at 37–41 [117]–[127].

23 *Zaidi Kanapiah* at 802–803 [104(b)].

24 *Dhinesh Tanaphll* at 370-371 [20]–[22].

25 *Lai Hen Beng* at 232 [14].

26 *Ketheeswaran* at 889–890 [133], [134], [137], [138].

27 *Alma Nudo* at [117]–[119].



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V. The Proportionality Test — A Surgical Approach to Sever an Unlawful Measure From a Lawful Objective

The fresh breeze that brought forth the development of the proportionality test allows the Federal Court in *Amir Hariri* to now relook at section 9(5) of the PAA through a more clinical lens than that in *Nik Nazmi* and *Yuneswaran*. In its analysis, the Federal Court thought it fit to leave the "reasonableness test" as is, and proceeded to apply the proportionality test to the impugned provision and reconsider the issue anew.

The crystallised test as declared to be representing the state of the law in a one-liner by the Apex Court, is this: any laws passed by Parliament are not simply rendered valid because they are passed for the reasons stated in Article 10(2), but that they must also be objectively fair and proportionate to the aim of, and reasons, for those restrictions.[28] This is the sum total of the new constitutional barometer following the development of law, post-*Azmi Sharom*.

Several important aspects of the test were aptly demonstrated to clearly show how the proportionality test — when compared to the reasonableness test — represents a more conscientious and balanced route undertaken by the Judiciary in ensuring that the court acts within its rightful limits of constitutional judicial review.

First, the Federal Court embarked on the foremost consideration of the test and examined the legislative aim of the PAA, and noted that the Act, including section 9(5), was passed with the express and implied intention of preserving the right to peaceful assembly, guaranteed by Article 10(1)(b) of the Federal Constitution. The fact that laws were passed for a sufficiently important aim is usually undisputed, as was in this case. Most legislation can be said to advance a legitimate purpose and not one of frivolity.[29]

However, moving on to the second consideration, the Federal Court found that there appears to be a disconnect between the noble and legitimate aim of preserving public order and the imposition of a punishment, via section 9(5).[30] If the intention of Parliament is to ensure that the police are notified of any upcoming assemblies so that they can be on guard to take protective action, then such an intention is clearly not manifest in the way section 9(5) is couched. The criminal sanction imposed for failure to give notice would apply to *ex post facto* punish an organiser of the assembly, even if the object of preserving public order has already been achieved — or that the assembly ends peacefully.[31] In other words, the measure imposed (the punishment) has no connection with legitimate aim (preserving public order). It is a standalone imposition that creates an onerous duty for no apparent reason. This offence discriminates the organiser against the gatherers of his or her assembly who commit no offence, while the organiser is guilty of one.

The third facet of the proportionality test — the "no more than is required" test has also not been met. To that end, the Federal Court drew a distinction between a "restriction" and a "prohibition". The former does not interfere with or control the substantive constitutional right itself; but rather, it regulates the way and manner and means by which it is done without hampering the right itself. By contrast, a "prohibition" is a total denial of a given right, rendering the same incapable of performance. The practically real legal effect of section 9(5) is that no person is entitled to organise a peaceful assembly without attracting criminal sanction, including the holding of urgent and spontaneous assemblies that could not otherwise be held within a number of days less than the notice period. This represents a total prohibition.[32]

Still on the third consideration of avoiding an overkill, the Federal Court explored a fresh angle in assessing proportionality. Tracking international jurisprudence, the Federal Court held that the

> "*existence of less intrusive legislative measure or restrictions though not entirely dispositive on constitutionality, is an important consideration in adjudging the proportionality of that measure or restriction*.

This relates directly to the measure imposed — if there can be or there already are measures to address the object, there should be no more than what is necessary.

To that end, the Federal Court referred to parallel legislation in other international jurisdictions, where

28 *Amir Hariri* at [57].

29 *Azmi Sharom* at [60] and [65].

30 *Amir Hariri* at [65].

31 *Amir Hariri* at [66]–[67], [74].

32 *Amir Hariri* at [72]–[73].

less intrusive measures[33] were introduced *in lieu* of criminal sanctions. Examples of such measures are (a) notice assures the conveners that the police cannot restrict the protest, (b) civil liability for riot damage under section 11 that follows from a failure to take reasonable steps to prevent the damage (which includes giving notice), (c) existing common law and statutory crimes regarding public disruption and violence, (d) enhanced civil liability for conveners who fail to give notice, (e) administrative fines, and (f) amending the definition of gathering such that notice is only required when police presence will be necessary. Even within our legislative context, should an assembly turn violent or unruly, the State is already vested with powers to prosecute offences against public tranquillity under Chapter VIII of the Penal Code. Preventive measures are also already housed in subsections 15, 20(1) and 21(1) of the PAA, empowering the police to arrest any organiser or participant who, during an assembly, refuses to adhere to any restrictions, has in his possession any arms or where the participants engage in disorderly conduct or violence towards persons or property.[34] There is no need for further overkill.

The upshot is this: the inevitable result of section 9(5) is the chilling effect on all organisers who are discouraged from ever organising such assemblies for fear of prosecution for failing to give notice. The overall effect of section 9(5) culminates no longer in a "restriction", as envisaged within the context of Article 10(2), but instead represents a total prohibition of a person's right to assemble peaceably.[35] It is thus unconstitutional as it fails to pass the muster of the proportionality test.

The Federal Court, in its concluding remarks, made clear that *Yuneswaran* is overruled and has no value as precedent, and the position of law in Nik *Nazmi*[36] is endorsed.

Conclusion

The case of *Amir Hariri* represents a clinical response against the oft-levelled cautions that the Judiciary should steer clear of policymaking, and its role ought to be confined to applying the law as is. This balance in upholding the Constitution and avoidance of judicial legislation is not always easy to achieve. As demonstrated above, the proportionality test does not involve judges sitting on the Bench and deciding which laws they like and which they do not like. It also does not involve a subjective review by judges of the desirability or popularity of any legislation, or the wisdom or the lack of it on the part of Parliament. Rather, the proportionality test is the ideal constitutional adjudicative tool to draw the line between legislative nobility and abuse of power under the guise of the former.

All in all, it has been firmly established that fundamental liberties guaranteed by our founding fathers must take primacy, and any interpretation or provisos which seek to derogate from these fundamental liberties, must be read restrictively.[37] The right to express one's opinion within a congregation is extremely important in the larger scheme of our societal rubrics. Dissenting voices, similar to that of Amir Hariri's, should not be eschewed. To that end, I can do no better than to echo the opening words of the first Chief Justice of the Court of Final Appeal, Mr Andrew Li Kwok-Nang, in the case of *Leung Kwok Hung and Others v HKSAR* [2005] HKCU 887:

> *"These freedoms are of cardinal importance for the stability and progress of society for a number of inter-related reasons. The resolution of conflicts, tensions and problems through open dialogue and debate is of the essence of a democratic society. These freedoms enable such dialogue and debate to take place and ensure their vigour. A democratic society is one where the market place of ideas must thrive. These freedoms enable citizens to voice criticisms, air grievances and seek redress. This is relevant not only to institutions exercising powers of government but also to organizations outside the public sector which in modern times have tremendous influence over the lives of citizens. Minority views may be disagreeable, unpopular, distasteful or even offensive to others. But tolerance is a hallmark of a pluralistic society. Through the exercise of these freedoms minority views can be properly ventilated.*

Else, we risk throwing out the proverbial baby with the bath water — the very outcome the proportionality test seeks to prevent. Tyranny would then ensue at the apogee of all abuses, when voices against such abuses are legislatively silenced.

33 *Amir Hariri* at [70].

34 *Amir Hariri* at [75].

35 *Amir Hariri* at [72].

36 Amir Hariri at [88].

37 *Lee Kwan Woh* at [8].

State Bar Events

Kedah Bar Committee

20 March 2025

Program Iftar & Infaq Bersama Anak-Anak Yatim DAYA

Program Iftar & Infaq Bersama Anak-Anak Yatim DAYA telah berlangsung pada 20 Mac 2025 (19 Ramadan 1446H) di Kompleks Batu 9, Alor Setar, Kedah. Anjuran Pertubuhan Anak-Anak Yatim Batu 9 Kedah ini disokong padu oleh ahli Badan Peguam Kedah dan sumbangan orang perseorangan. Program ini memberi kegembiraan kepada anak-anak yatim melalui wang tunai dan barangan keperluan seperti mesin basuh, seterika, oven, kereta sorong dan lain-lain. Aktiviti berjalan lancar, mencapai objektif sosial dan kebajikan, serta memperkukuh semangat kerjasama komuniti.



19 Julai 2025

Seminar on Expert Witness

Seminar ini telah diadakan pada 19 Julai 2025 di Park Avenue Hotel, Sungai Petani, dengan kehadiran 157 peserta terdiri daripada pengamal undang-undang dan pihak berkepentingan. Seminar menampilkan barisan penceramah terkemuka iaitu YA Dato' Seri Vazeer Alam bin Mydin Meera, Hakim Mahkamah Persekutuan; Assoc. Prof. Dato' Seri Dr Bhupinder Singh, daripada Royal College of Surgeons Ireland & University College Dublin Malaysia Campus; M.M. Athimulan, daripada Messrs Athimulan & Co; dan R. Jayabalan, Bendahari Badan Peguam Malaysia yang berkongsi pandangan serta pengalaman berkaitan isu perundangan semasa dan perkembangan amalan guaman. Program ini berjaya meningkatkan pengetahuan peserta, memperkukuh kemahiran profesional, merangsang perbincangan konstruktif, dan memperkukuh jaringan profesional dalam komuniti guaman.

27 Julai 2025

Conveyancing Seminar 2025

Conveyancing Seminar 2025 telah diadakan pada 27 Julai 2025 di Urban Space, Alor Setar dan menampilkan barisan penceramah berpengalaman iaitu Wan Mansor bin Wan Mohamed, Murshidah binti Mustafa, Nurul Azhani binti Shaharim, Azmee bin Omar, Zulfatul Husna binti Zakaria, R. Jayabalan, Norhayati binti Mohamed dan Richard Teh. Seminar ini mendapat sambutan menggalakkan dengan kehadiran 152 peserta. Program ini berjaya meningkatkan pengetahuan dan kefahaman peserta berkaitan amalan conveyancing semasa serta merangsang perbincangan profesional yang bermanfaat.

27 September 2025

Kejohanan Boling Empat Penjuru Kedah Bar 2025

Kejohanan Boling Empat Penjuru Kedah Bar 2025 telah diadakan pada 27 September 2025 di Park Avenue Bowling Centre (Sejati Superbowl), Sungai Petani. Kejohanan ini bertujuan mengeratkan hubungan antara pihak kehakiman, pendakwaan, agensi penguatkuasaan dan pengamal undang-undang melalui aktiviti sukan yang sihat. Sebanyak 21 pasukan menyertai pertandingan ini dengan format tiga pemain sepasukan dan tiga permainan setiap peserta, berdasarkan jumlah jatuhan pin terkumpul. Walaupun bersifat kompetitif, semangat kesukanan dan kerjasama jelas ditonjolkan. Secara keseluruhan, program ini berjaya memupuk perpaduan dan hubungan baik, serta dicadang diteruskan sebagai acara tahunan.



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3 and 4 Oktober 2025

Program Dari Peguam Untuk Rakyat: Langkawi 2025 — Jalinan Bersama Komuniti

Program Dari Peguam Untuk Rakyat: Langkawi 2025 — Jalinan Bersama Komuniti telah diadakan pada 3 dan 4 Oktober 2025 di Kampung Kilim, Langkawi, hasil kerjasama Badan Peguam Kedah dan Lembaga Pembangunan Langkawi, dengan penyertaan 44 ahli. Hari pertama menampilkan majlis perasmian dan sesi khidmat nasihat guaman yang mendapat sambutan penduduk setempat.

Hari kedua diisi dengan taklimat daripada LADA ("Langkawi Development Authority"), aktiviti pembersihan Pantai Teluk Mempelam, lawatan sekitar Laut Andaman dan jamuan makan tengah hari. Program ini berjaya memperkukuh hubungan antara peguam dan komuniti serta memupuk kerjasama sosial yang positif.



Kelantan Bar Committee

29 Jun 2025

Sesi Sinergi 2.0: Pertimbangan Kehakiman — Panduan untuk Peguam Muda

Sesi Sinergi 2.0 merupakan sebuah program ilmiah anjuran Jawatankuasa Kecil Peguam Muda dan Pelatih Dalam Kamar, Amalan Sivil dan Hak Kemanusiaan, Jawatankuasa Peguam Negeri Kelantan. Program ini berlangsung pada 29 Jun 2025 di Hotel Che Wok, Kota Bharu, dan dianjurkan sebagai platform perkongsian ilmu dan pengalaman secara langsung antara badan kehakiman dan peguam muda, khususnya dalam memahami aspek pertimbangan kehakiman dari perspektif seorang hakim.



Program ini menampilkan penceramah jemputan istimewa, Profesor Ikhtisas Fakulti Undang-Undang, Universiti Kebangsaan Malaysia, Yang Amat Berbahagia Tun Tengku Maimun binti Tuan Mat, yang juga merupakan penyandang Kursi Kurniaan bagi Kursi Diraja Tunku Muhriz dalam bidang Integriti dan Tadbir Urus Baik. Tajuk syarahan beliau, “Pertimbangan Kehakiman: Panduan untuk Peguam Muda”, memberi fokus kepada pemahaman bagaimana hakim menilai hujahan, menimbang fakta dan undang-undang, serta membentuk alasan penghakiman.

Melalui sesi ini, para peserta berpeluang memperoleh panduan praktikal tentang penyediaan hujahan yang berkesan, etika di dalam mahkamah, serta pendekatan profesional yang selari dengan prinsip integriti dan tadbir urus baik. Perkongsian ini amat signifikan dalam membentuk generasi peguam muda yang bukan sahaja cekap dari segi teknikal, malah memahami peranan mereka sebagai pegawai mahkamah yang bertanggungjawab.

Sesi yang berlangsung di Auditorium Kelantan Bar ini mencerminkan komitmen berterusan dalam memperkasa pembangunan profesionalisme dan kecemerlangan amalan perundangan di Negeri Kelantan.

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15 Ogos 2025

Bar Bench Games 2025



Kelantan Bar telah menganjurkan satu aktiviti sukan berkonsepkan muhibah iaitu Bar Bench Games 2025, yang menghimpunkan penyertaan daripada ahli Kelantan Bar, kakitangan Kelab Sukan dan Kebajikan Mahkamah Negeri Kelantan (“KESUKMA”) serta kakitangan Mahkamah Syariah Kota Bharu (“KESUMAS”).

Pelbagai acara sukan dalaman telah dipertandingkan, antaranya catur, congkak, darts, karom, batu seremban, badminton dan pingpong. Manakala bagi acara luaran, sukan yang dipertandingkan ialah bola sepak dan bola jaring.

Berdasarkan kutipan mata keseluruhan, KESUKMA telah muncul sebagai juara keseluruhan, diikuti oleh KESUMAS di tempat kedua, manakala Kelantan Bar menduduki tempat ketiga.

Penganjuran aktiviti ini bertujuan untuk memupuk dan mengeratkan hubungan silaturahim antara ahli badan peguam Negeri Kelantan dengan warga KESUKMA dan KESUMAS, di samping menggalakkan amalan gaya hidup sihat serta kepentingan menjaga kesihatan fizikal dan mental dalam kalangan peserta.







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11 Oktober 2025

Majlis Makan Malam Kelantan Bar dan Pelancaran Website Rasmi Kelantan Bar



Majlis makan malam Kelantan Bar 2025 telah berlangsung dengan penuh gemilang pada 11 Oktober 2025 bertempat di Dewan Puteri Saadong, Hotel Riverview Kota Bharu. Bertemakan “Step into the Frame: Dress as Your Movie Icon”, majlis ini menyaksikan kelainan yang luar biasa apabila para peguam tampil kreatif menghidupkan pelbagai watak ikonik filem dan drama.



Majlis ini telah diserikan dengan kehadiran tetamu-tetamu kehormat, antaranya Dato’ Mohamad Ezri Abdul Wahab, Pengerusi Badan Peguam Malaysia bersama isteri, Datin Zemilah Mohd Noor; YA Tuan Shamsul Bahrin Abdul Manaf, Pesuruhjaya Kehakiman Mahkamah Tinggi Kota Bharu; barisan kepimpinan Majlis Peguam Malaysia; dan Pengerusi serta Ahli Jawatankuasa Badan Peguam Negeri Kelantan dan negeri-negeri lain.

Pelbagai persalinan unik seperti Jack Sparrow, Maleficent, Cruella, Squid Game, Harry Potter, Darth Vader, Mat Kilau dan banyak lagi berjaya mencuri tumpuan, membuktikan bahawa warga peguam bukan sahaja profesional di mahkamah, malah kreatif dan berjiwa seni.

Majlis turut dimeriahkan dengan persembahan istimewa daripada barisan peguam sendiri sebelum kemunculan Ezad Lazim sebagai persembahan kemuncak, yang mengimbau nostalgia menerusi lagu-lagu popular era 90-an. Sorakan dan nyanyian bersama para tetamu menjadikan suasana malam tersebut lebih syahdu dan bermakna.

Selain itu, majlis turut diserikan dengan aktiviti interaktif seperti pertandingan Kahoot, cabutan bertuah serta Anugerah Best Dressed, yang telah dimenangi oleh Puan Saleha dan Encik Azilan. Sejarah turut tercipta apabila laman sesawang rasmi Kelantan Bar dilancarkan pada malam tersebut.



Majlis ini tidak akan mencapai kejayaannya tanpa sokongan padu para penaja, jawatankuasa penganjur, barisan sekretariat serta kehadiran warga peguam yang menjadi nadi kekuatan Kelantan Bar. Sesungguhnya, Majlis Makan Malam Kelantan Bar 2025 kekal sebagai satu detik bersejarah yang terpahat indah dalam lipatan memori.



1 Januari 2026

Majlis Prosiding Rujukan 2026

Pembukaan tirai tahun 2026 bagi komuniti perundangan Negeri Kelantan dimulakan dengan penganjuran Majlis Prosiding Rujukan oleh Kelantan Bar pada 1 Januari 2026, sebagai tanda mengenang empat belas rakan peguam Kelantan yang telah kembali ke rahmatullah. Majlis yang penuh tertib dan bermakna ini berlangsung di Mahkamah Tinggi Kota Bharu ("MTKB") di hadapan Yang Arif Dato' Hasbullah Adam, Hakim MTKB; Yang Arif Mohd Rosli Yusoff, Hakim MTKB; dan Yang Arif Shamsul Bahrin Abdul Manaf, Pesuruhjaya Kehakiman MTKB.





Majlis turut diserikan dengan kehadiran tetamu kehormat, Puan Wan Azimah Yaacob, Pengarah Pendakwaan Negeri Kelantan yang mewakili YBhg Tan Sri Mohd Dusuki Mokhtar, Peguam Negara; serta Puan Murshidah Mustafa, Setiausaha Badan Peguam Malaysia yang mewakili Dato' Mohamad Ezri Abdul Wahab, Pengerusi Badan Peguam Malaysia. Kehadiran mereka mencerminkan sokongan padu institusi pendakwaan dan Majlis Peguam terhadap usaha memperingati jasa serta sumbangan ahli-ahli profesion ini.

Majlis dimulakan dengan ucapan aluan tetamu kehormat dan ucapan pembukaan oleh Pengerusi Jawatankuasa Peguam Negeri Kelantan 2025/2026, Encik Ahmad bin Alwi, yang menyentuh hati hadirin dengan penekanan terhadap nilai kekitaan, solidariti dan semangat kekeluargaan dalam kalangan warga Kelantan Bar. Ucapan tersebut menjadi peringatan bahawa hubungan yang terjalin dalam profesion ini bukan sekadar atas kapasiti tugas, malah terikat dengan nilai persahabatan dan saling menghormati.

Suasana majlis bertambah hening apabila para Reciter yang terdiri daripada rakan-rakan peguam membacakan latar belakang, perjalanan kerjaya serta sumbangan mereka yang telah pergi. Lebih menyentuh perasaan apabila sebahagian Reciter mempunyai hubungan peribadi yang akrab dengan mendiang, menjadikan setiap bait kata yang diungkapkan sarat dengan emosi dan penghargaan yang tulus.

Untuk rekod, Prosiding Rujukan ini merupakan penganjuran kali ketiga dalam sejarah Kelantan Bar, selepas kali pertama pada tahun 2006 dan kali kedua pada tahun 2023. Kerjasama erat daripada pihak Mahkamah Tinggi Kota Bharu sepanjang majlis berlangsung amatlah dihargai dan menjadi asas kepada kelancaran acara yang penuh bermakna ini.

Berikut merupakan senarai rakan peguam yang dirujuk:

(1) En Ang Kiang Leng (Messrs Nik Saghir & Ismail)
(2) En Redzuan bin Abdul Rahman (Messrs Redzuan Mazihan & Co)
(3) En Pathiyil Ramakrishnan a/l Narayanan (Messrs Rama, Maziana & Co)
(4) En Mohd Roslan bin Hassan (Messrs Rithauddeen & Aziz)
(5) Puan Salmi binti Daud (Messrs Salmi & Associates)
(6) Puan Rosnelim binti Yusoff (Messrs Syukran Noordin)
(7) En Aaron Abraham @ Aaron Kerubakaran Isaac (Messrs Lachaman Lalchand & Associates)
(8) En Roslan bin Md Nor (Messrs Roslan Md Nor & Co.)
(9) En Foo Say Ghee (Messrs Foo Say Ghee & Zamzuri)
(10) Dato' Sulaiman bin Ismail (Messrs Sulaiman Ismail & Associates)
(11) Puan Noor Aini binti Ismail (Messrs Aini & Azlina)
(12) Puan Suhaila Binti Omar (Messrs Azilan Suhaila & Associates)
(13) Puan Mannunah binti Abdullah (Messrs Mokhtar & Co.)
(14) En Hisham Bin Fauzi (Messrs Hisham Fauzi & Associates)





ATIPSOM

Program ini merupakan satu inisiatif kesedaran komuniti yang menghimpunkan pelbagai pihak bagi memperkukuh kefahaman masyarakat terhadap isu perundangan, khususnya berkaitan undang-undang imigresen dan pemerdagangan manusia. Bertempat di Dewan SK Rantau Panjang 2, program dimulakan dengan sesi pendaftaran dan sarapan, diikuti dengan sesi pengenalan serta pelaksanaan Jualan Rahmah bagi membantu meringankan beban komuniti setempat. Majlis diteruskan dengan ucapan alu-aluan oleh Pengerusi Jawatankuasa Peguam Negeri Kelantan sebelum para peserta mengikuti dua sesi taklimat utama yang disampaikan oleh wakil Jabatan Imigresen Malaysia Negeri Kelantan serta Jawatankuasa Kecil Pusat Bantuan Guaman dan Yayasan Bantuan Guaman Kelantan. Taklimat ini memberi penekanan terhadap aspek perundangan dalam menangani pemerdagangan manusia serta kefahaman berkaitan Akta Imigresen dan ATIPSOM ("Akta Antipemerdagangan Orang dan Antipenyeludupan Migran").





Program turut diserikan dengan penyampaian cenderamata dan sesi interaktif bersama peserta bagi menggalakkan perbincangan dua hala serta memperkukuh kefahaman isu yang dibentangkan. Sebagai kesinambungan pendekatan turun padang, program diakhiri dengan lawatan "house visit" ke beberapa buah rumah sekitar kawasan SK Rantau Panjang 2 bagi mendekati masyarakat secara lebih dekat. Secara keseluruhannya, program ini bukan sahaja berfungsi sebagai platform penyampaian ilmu, malah mencerminkan komitmen berterusan pihak penganjur dalam memperkasa komuniti melalui pendidikan undang-undang dan khidmat masyarakat.



Kuala Lumpur Bar Committee

8 February 2026

KL Bar Run 2026



The KL Bar Run 2026 returned to Padang Merbok on 8 February 2026, marking the largest edition in the event's history. Chief Justice YAA Datuk Seri Utama Wan Ahmad Farid bin Wan Salleh officially flagged off the race at 7:15 am. Led by the Honorary Secretary and Sports Chairperson, Shugan Raman, and a dedicated organising team, the event saw a record-breaking participation of 1,930 runners across 489 teams, including 60 members of the Judiciary and 16 from the Attorney General's Chambers. There was also participation from The Law Society of Singapore, The Law Society of Hong Kong and The Taiwan Bar Association.

This year's run was organised in collaboration with Care2Run, a sports mentoring programme for youths aged 8 to 18. The partnership highlighted a commitment to supporting children with higher learning needs from diverse socio-economic backgrounds.

The field was lined with 42 canopies manned by sponsors and law firms, creating a festive atmosphere for participants. The grounds provided a vibrant space for participants to catch up with friends and forge new professional bonds over breakfast after the race.

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11 October 2025

Criminal Law Conference 2025

The Criminal Law Conference 2025 was held on 11 October 2025 at the KL Bar Auditorium. Organised by the Criminal Law Practice Committee ("CLPC"), the event drew 85 participants.

The conference featured five comprehensive sessions addressing contemporary challenges in the criminal justice system:

- **Session 1:** A discussion on Penal Code and CPC reforms featuring Tan Sri Datuk Harminder Singh Dhaliwal, Assoc Prof Datuk Dr Shamrahayu binti Ab Aziz, and Goh Cia Yee, moderated by Srimurugan Alagan.



- **Session 2:** Assoc Prof Dato' Seri Dr Bhupinder Singh and moderator Salim Bashir examined the role of expert evidence in criminal trials.
- **Session 3:** Legal remedies for cyber sexual harassment and the misuse of AI were explored by LS Leonard, Sonya Liew Yee Aun, and Pavitra Kalaiselvan, moderated by Collin Arvind Andrew.
- **Session 4:** Latheefa Koya and Sudhagaran Stanley, moderated by Jason Kong, debated the efficacy of whistleblower protection laws.
- **Session 5:** The final session, moderated by Kitson Foong, focused on "Invisible Disabilities" in the legal process, featuring insights from Dr Ian Lloyd Anthony and YA Puan Nurulhuda Nur'aini binti Mohamad Nor.

The conference provided a vital platform for practitioners to engage with members of the judiciary and academia on evolving legal standards in the specialised area of criminal practice.

1 July 2025 and 11 December 2025

Welcome and Farewell Luncheons for the Judiciary





In 2025, the Civil Practice and Court Liaison Committee ("CPCLC") hosted two significant luncheons at the Kuala Lumpur Court Complex Library to honour members of the Judiciary.

The first luncheon, held on 1 July 2025, saw an attendance of 118 guests, including 33 members of the Judiciary. The occasion provided a poignant opportunity for the Kuala Lumpur Bar to bid farewell to the outgoing Chief Justice and President of the Court of Appeal, both of whom were serving their final day in office.

Following an overwhelming response, a second luncheon was organised on 11 December 2025. This session catered to 140 attendees, including the newly appointed Chief Justice of Malaya ("CJM"), Managing Judges, Judges from the Court of Appeal and Kuala Lumpur High Court, and 107 Bar members. A key highlight of this event was the welcoming of the new CJM, and 34 newly appointed / transferred High Court Judges and Judicial Commissioners to the Kuala Lumpur Courts.

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16 January 2026

16th KLYLC Charity Night

On 16 January 2026, the Kuala Lumpur Bar Young Lawyers Committee ("YLC") hosted the 16th Charity Night at the Galaxy Banquet Hall, HGH Convention Centre. This event marked the highly anticipated return of the iconic Charity Night following a six-year hiatus since 2019. The evening served a dual purpose of raising funds for charitable causes and fostering fellowship among Members of the Bar and invited guests.

The night featured eight diverse performances by 28 participants, including solo acts, duets, dances and live bands. Through the collective generosity of attendees, the Committee successfully raised RM13,190 in donations.

- **Champion:** Team "Despicable Me" (Skrine)
- **First Runner-Up:** Brenda Loh Ling Li
- **Second Runner-Up:** "Holmium" (Nigel William Kraal and Kenny Tan)
- **Best Performance:** "Red Hot Curry Powder"

The success of the 16th Charity Night underscores the YLC's enduring commitment to community engagement and social responsibility.



Malacca Bar Committee

19 July 2026

Two States, One Peak — Gunung Ledang Day Hike

The Malacca Bar Young Lawyers and Chambering Pupils Committee, together with the Johore Bar Young Lawyers and Pupils Committee, successfully held a one-day inter-state hiking programme at Gunung Ledang via the Sagil entrance on 19 July 2025. The programme attracted approximately 25 participants from Melaka and Johor and aimed to foster connection, teamwork and camaraderie among young lawyers and pupils in chambers. Conducted in a safe, inclusive and well-coordinated manner, the hike welcomed participants with varying experience levels, all of whom demonstrated determination, resilience and strong team spirit. The scenic trail and shared sense of achievement made the initiative memorable and rewarding for everyone.

10 October 2026

Judges' Farewell, Retirement and Welcoming Dinner

The Malacca Bar Committee successfully held a joint farewell, retirement and welcoming dinner on 10 October 2025 at OL'a Malaka to honour key judicial milestones. The event marked the elevation of YA Datuk Mohd Radzi b Abdul Hamid to the Court of Appeal, the retirement of Datuk Anselm Charles Fernandis, and the appointments of YA Tuan Suria Kumar s/o Durairaj Johnson Paul and YA Tuan Isa Aziz Ibrahim to the Melaka High Court. Attended by members and Sessions Court Judge, Puan Elesabet Paya Wan, the evening also featured speeches, a commemorative montage and the presentation of tokens of appreciation.

12 to 14 September 2025

Malaysia Triumphs at Malaysia-Singapore Bench and Bar Games 2025 in Melaka

The Malaysia-Singapore Bench and Bar Games 2025 ("Games"), held from 12 to 14 September 2025, concluded successfully with Malaysia emerging as the overall winner in a spirited display of sportsmanship, camaraderie and competitive excellence between the two legal fraternities.

Hosted by Malaysia and organised by the State of Melaka, the Games featured a wide range of sporting disciplines, drawing enthusiastic participation from both countries. Across 19 events, Malaysia demonstrated strong all-round performances, securing 11 wins, while Singapore claimed four victories. Four events ended in draws and one event was categorised as non-competitive.

Malaysia dominated several key events including bowling (10–3), darts (6–1), badminton (5–0), volleyball (3–0), basketball (60–26), golf (12.5–10.5), squash (3–2), hockey (2–1) and the premier football event with an emphatic victory (6–3), earning the coveted "Sweetie" point. Meanwhile, Singapore recorded notable wins in tennis, netball, table tennis and mixed football.

Several closely-contested matches ended in draws including cricket (abandoned due to rain), pool (4–4),



Welcome Reception at Malacca Club Tg Kling, 11 September 2025.



Darts at Malacca Club 12 September 2025.



Ladies Football at Stadium Hang Tuah Melaka, 13 September 2025.

chess (5–5), veterans football and billiards, reflecting the evenly-matched skills and competitive spirit of both sides. The masters football match, though non-competitive, was won by Malaysia (2–1).

Beyond the results, the Games reinforced the long-standing friendship and mutual respect between the Malaysian and Singaporean Bars. The successful hosting in Melaka showcased not only organisational excellence but also the warmth and hospitality of the Malaysian legal community.

The Games will be remembered as a celebration of unity, sportsmanship and the enduring ties between the two nations' legal professions.



Closing Dinner, Holiday Inn Hotel, Melaka.
14 September 2025.

Malacca Bar WhatsApp Channel

Malacca Bar Facebook Page



Cross Country at Dataran Klebang,
14 September 2025.

8 November 2026

Malacca Bar Annual Dinner and Dance 2025

The Malacca Bar Annual Dinner and Dance 2025 was successfully held on 8 November 2025 at Holiday Inn Melaka, with nearly 300 attendees. This lively Halloween-themed celebration featured creative costumes, good food and strong camaraderie within the legal community. The event opened with welcoming remarks by Khairil Aznan b Azizi, Chairman of the Malacca Bar Committee, followed by a speech from YA Tuan Suria Kumar s/o Durairaj Johnson Paul, Judge of Melaka High Court 1. The highlights of the event included a karaoke competition involving members and pupils in chambers, best-dressed awards and door gifts from Mamee.

11 December 2026

Bowling Night by the Malacca Bar Young Lawyers and Chambering Pupils Committee

The Malacca Bar Young Lawyers and Chambering Pupils Committee successfully held a social event titled "Bowling Night" on 11 December 2025 at the Melaka International Bowling Centre. The programme aimed to foster camaraderie, strengthen relationships and provide an inclusive, relaxed platform for interaction among young lawyers, pupils in chambers and the public. The event saw encouraging participation from individuals of diverse backgrounds and varying bowling experience, creating a fun and welcoming atmosphere. Friendly competition and prizes added to the excitement, while the casual setting encouraged networking and meaningful connections. Overall, the event successfully promoted fellowship, community engagement and work-life balance.

Negeri Sembilan Bar Committee

National and International Engagement

11 April 2025

International Recognition – Tamil Nadu Dr. Ambedkar Law University Visit

In a historic first, the NS Bar hosted two lecturers and 20 law students from The Tamil Nadu Dr. Ambedkar Law University, India, in collaboration with Universiti Kebangsaan Malaysia's Faculty of Law. The delegation received comprehensive briefings on Malaysian courts, toured the Seremban Court Complex, and observed live proceedings. A special appreciation goes to the Seremban Court Director Tuan Darmafikri bin Abu Adam and Messrs Rama & Associates for hosting lunch. This visit underscores the growing international recognition of NS Bar.



14 July 2025

Walk to Safeguard Judicial Independence, Putrajaya

The NS Bar participated alongside 1,600 legal practitioners nationwide in this historic walk organised by the Malaysian Bar, demonstrating firm solidarity with the principles of judicial independence and separation of powers.

7 May 2025

Institutional Engagement & Advocacy: Royal Patronage and State Relations

The Committee had the honour of an audience with DYMM Tuanku Muhriz ibni Almarhum Tuanku Munawir at Istana Hinggap, strengthening ties between the Bar and the royal institution and reaffirming our commitment to justice and legal excellence.

19 August 2025

Courtesy Visit to the Negeri Sembilan Police Chief, YDH DCP Dato Ahmad Dzaffir bin Mohd Yusoff

The Committee paid a courtesy visit to the NS police chief to foster better working relationships between the legal fraternity and the police communities.

21 August 2025

Inaugural Criminal Law Symposium

A landmark event at the Royal Sungai Ujong Club with more than 130 participants which featured critical discussions on key issues in criminal law, human rights, and strategic litigation from Malaysia's most experienced legal minds.

The distinguished speakers and their respective topics were Tan Sri Dr. Muhammad Shafee Abdullah (high-profile economic offences), Tuan Athimulan Muruthiah (expert witness examination), and Tuan Salim Bashir Bhaskaran (Sexual Offences Against Children Act 2017).

Sponsored by Asia Knowledge Law Books, this event was organised by the Criminal Law, Human Rights & Civil Law Committee of the Negeri Sembilan Bar.

22 November 2025

Historic 60th Anniversary Celebration

The Negeri Sembilan Bar commemorated its Diamond Jubilee in splendour at d'Tempat Country Club, graced by DYMM Yang di-Pertuan Besar Negeri Sembilan, Tuanku Muhriz ibni Almarhum Tuanku Munawir. Also present were High Court Judges, YA Wan Fadhilah Nor binti Wan Idris and YA Tuan Mohamad Haldar bin Abdul Aziz; State Legal Advisor, YB Dato' Muzalmah binti Mustapha Kamal; and the Malaysian Bar President, Dato' Mohamad Ezri bin Abdul Wahab; Vice-President, Anand Raj; Secretary, Murshidah Mustafa; and Treasurer, R. Jayabalan; and other members of the legal fraternity.



Pahang Bar Committee

This 2024 report was inadvertently omitted from the last issue of Praxis and is now carried below.

April to November 2024

11 April 2024

Jamuan Hari Raya Peguam Pahang Barat and Pusat Bantuan Guaman (Temerloh) 2025 at Laman Sakinah, Kg Gantok, Temerloh, Pahang







25 April 2024

Meet-Up Sessions with Pupils in Chambers

The Co-Chair of the Young Lawyers and Pupils-in-Chambers Committee, Adrian Vendargon, had an informal meet-up session with Pahang Bar pupils in chambers on 25 April 2024. Apart from building camaraderie, the pupils were able to raise certain issues that were relevant to their pupillage period.



30 April 2024

Meeting between Kampung Orang Asli ("KOA") Gumum, Tasik Chini, Pahang with Pahang Orang Asli Corporation ("ORACO")

On 30 April 2024, Hon Kai Ping, Co-Deputy Chairperson of the Committee of Orang Asli Rights, together with six pupils in chambers, attended a meeting between KOA Gumum, Tasik Chini, Pahang with officers from Jabatan Kemajuan Orang Asli ("JAKOA") and ORACO to discuss the issues of commercial replanting or Tanaman Semula Komersil ("TSK") under RISDA, as well as the rights and impact on the KOA, given the new plans of the State Government.



8 May 2024

Pahang Bar Majlis Jamuan Hari Raya Aidilfitri 2024

On 8 May 2024, the Pahang Bar Committee, through its Social & Welfare Committee, organised its annual Pahang Bar Majlis Jamuan Hari Raya Aidilfitri for the year 2024 at Rumah Puspanita, Kuantan, Pahang. It was attended by the Guest of Honour, YA Dato' Mohd Radzi bin Harun, High Court Judge in Kuantan, as well as members of the Pahang Bar.



14 August 2024

Legal Awareness Programme at SMKA TAHAP, Jerantut, Pahang

On 14 August 2024, the Pahang Bar and Legal Aid Centre (Temerloh) was invited to be one of the speakers for a legal awareness talk titled "Kesan & Akibat Salah Laku Seksual dan Buli dalam Kalangan Pelajar" at SMKA TAHAP, Jerantut, Pahang by Alumni TAHAP. Both the speaker, Muhammad Zul Hafiz, and the moderator, Nurul Nahar, were alumni of the school, as well as Pahang Bar Members.





28 and 29 June 2024

MyBar Games Penang 2024

The MyBar Games Penang 2024 was held at the beautiful island of Penang and Pahang Bar, as always, sent its contingent of players to participate in the Games. In 2024, the Pahang Bar Ping Pong Team set a new benchmark for future Pahang Bar sportspersons, with a remarkable achievement as Champions in the Ping Pong event.

10 September 2024

Revisiting the Legal Status of Sabah and Sarawak in Malaysia



On 10 September 2024, the Pahang Bar Continuing Legal Education Committee organised a monthly talk on "Revisiting Legal Status of Sabah & Sarawak in Malaysia" at the Pahang Baru Building in Kuantan. This talk was delivered by Prof Madya Dr A Rahman Tang Abdullah from Universiti Malaysia Sabah, whose expertise includes the modern history of Malaysia and Malay historiography as well as the comparative history of modern and contemporary Southeast Asia.

22 September 2024

Beach Clean-Up @ Pantai Teluk Sisek (in Conjunction with World Cleanup Day 2024)

The Pahang Bar Committee received an invitation from Majlis Bandaraya Kuantan to participate in a beach clean-up programme in conjunction with World Cleanup Day 2024. The Pahang Bar Environment Committee brought a team of six members to contribute to the cause.



28 September 2024

The Pahang Bar & Bench Games, Kompleks Sukan UIA, Kuantan, Pahang

The Pahang Bar Sports & Recreation Committee, Kelab Sukan Mahkamah Kuantan and Kelab Sukan Mahkamah Temerloh again co-hosted the Bar & Bench Games 2024, which was held at Kompleks Sukan UIA, Kuantan, Pahang. This annual event aims to foster and maintain a good relationship between the Bar and Bench through sport.



23 September 2024 and 9 October 2024

"Beyond the Bar" Series



The Art of Choux



Grease & Gleam

On 23 September 2024 and 9 October 2024, the Pahang Bar Social & Welfare Committee hosted two non-legal programmes to encourage members of the Pahang Bar to explore activities outside the legal profession, under its "Beyond the Bar" series. This series included programmes such as "The Art of Choux", a pastry-making workshop; and "Grease & Gleam", on repurposing used cooking oil into soap. The objective of the "Beyond the Bar" series is to strengthen the bond among Pahang Bar members, as well as to inculcate and encourage creativity among its members, to enhance the personal growth of members beyond the office.

24 September 2024 and 24 October 2024

"Maestro & Macchiato" Series

The "Maestro & Macchiato" series is a motivational series where senior lawyers share their insights and experiences with young legal professionals. Two sessions were held featuring Mohd Najid Husain and Ong Siew Wan, providing invaluable guidance on navigating the legal field. This series aims to bridge generations within the profession, fostering mentorship and growth.



With Mohd Najid Husain



With Ong Siew Wan

26 October 2024

Pertandingan Pantun Undang-undang Peringkat Kebangsaan 2024

On 26 October 2024, the Pahang Bar, together with the Pahang Bar Young Lawyers and Pupils-in-Chambers Committee, sent a team of two young lawyers and one pupil in chambers to participate in the Pertandingan Pantun Undang-undang Peringkat Kebangsaan 2024 at Universiti Sains Islam Malaysia, Nilai.

18 October 2024

Reference Proceedings at the Kuantan High Court

Death should not be the end of a person's contribution to the Bar! As such, in order to commemorate the contributions of fellow members who have passed away, on 18 October 2024, the Pahang Bar together with the Pahang Bar Court Liaison Committee, held a reference proceedings for members who have passed away before the Kuantan High Court Judge, YA Dato' Mohd Radzi bin Harun. This event was attended by the Secretary of the Malaysian Bar, Murshidah Mustafa, the judicial officers, representatives from the Attorney General's Chambers, Pahang Bar members and the family members of the deceased.





9 November 2024

Legal Awareness Talk with the Orang Asli

On 9 November 2024, the Pahang Bar, together with the Bar Council Legal Aid Centre (Temerloh) organised a legal awareness talk among the Orang Asli community at Kampung Kuala Atok in Taman Negara, Jerantut, Pahang, mainly focusing on issues of marriage, divorce, registration of the birth of children and the impact of the Protection of Wild Life 1972 on this community. There were 11 volunteers, consisting of Pahang Bar members and pupils in chambers, along with assistance from two officers from Jabatan Kemajuan Orang Asli ("JAKOA") in Jerantut, Pahang.

April to December 2025

17 April 2025

Pahang Bar Majlis Jamuan Hari Raya Aidilfitri 2025 at Shahzan Hotel, Kuantan







8 and 9 August 2025

MyBar Games Kuala Lumpur 2025







13 August 2025

Photography and Hi-Tea Session for the transfer of Temerloh High Court Judge YA Tuan Roslan bin Mat Nor at Hotel Seri Malaysia, Temerloh





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22 September 2025

Welcoming Dinner for the Temerloh High Court Judge YA Puan Julia binti Ibrahim, Temerloh High Court Judicial Commissioner YA Tuan Kuldeep Kumar a/l Jamna Dass, and Kuantan High Court Judicial Commissioner YA Tuan Samry bin Masri at Mega View Hotel, Kuantan



Penang Bar Committee

20 June 2025

Six Elevation Proceedings at the Penang High Court

On 20 June 2025, the Penang Bar held six Elevation Proceedings at the Penang High Court to honour six High Court judges who received their confirmation as judges in Penang. The ceremony took place at High Court OCVC 1 at 3:00 pm and marked a significant milestone in the history and traditions of the Penang Bar.



The Elevation Proceedings is a long-standing tradition of the Bar, held to formally recognise and celebrate the elevation and confirmation of members of the Bench. The last such ceremony held at the Penang High Court was in 2017 in honour of Lim Chong Fong J (as he then was). Notably, the 2025 proceedings were historic, as it was the first time that six judges were honoured simultaneously by the Penang Bar.



The judges honoured at the ceremony were YA Dato' Quay Chew Soon, YA Dato' Anand Ponnudurai, YA Dato' Azizan b Md Arshad, YA Dato' Kenneth Yoong Ken Chinson St James, YA Puan Fathiyah bt Idris and YA Puan Rofiah bt Mohamad. The proceedings were presided over by YA Dato' Rozana bt Ali Yusoff, whose presence underscored the significance of the occasion.





The ceremony was well attended by the Chairman and committee members of the Penang Bar, former Chairmen of the Penang Bar, judicial officers as well as representatives from the Malaysian Bar and Attorney General's Chambers. Family members and invited guests of the honoured judges were also present, lending warmth and personal significance to the proceedings.

Following the conclusion of the Elevation Proceedings, the attendees adjourned for a tea reception held at Anjung Hakim and Anjung Banquet of the Penang High Court. The reception provided an opportunity for members of the Bench and Bar to engage in fellowship and collegial exchange in a celebratory setting, befitting the importance of the occasion.

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14 November 2025

Visit by the Hainan Lawyers Association

The Penang Bar Committee hosted a delegation from the Hainan Lawyers Association on 14 November 2025. The delegation was taken on a guided tour of the Penang High Court, where they were introduced to the Court's history and judicial processes. Thereafter, the delegation adjourned to the Bar Room at the Penang High Court for refreshments. The visit provided an opportunity for the members of both associations to engage in friendly discussions and exchange views on legal practice and professional matters. The session fostered goodwill and strengthened ties between the two legal communities.



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16 November 2025

Signing of Memorandum of Understanding between the Malaysian Bar and Hainan Lawyers Association



The Malaysian Bar and Hainan Lawyers Association formalised a Memorandum of Understanding ("MoU") on 16 November 2025 at the Grand Ballroom, Setia SPICE Convention Centre. This MoU signifies a shared commitment to strengthening friendship, fostering professional cooperation and promoting mutual exchange between the two legal bodies. The Malaysian Bar was represented by its President, Mohamad Ezri b Abdul Wahab. The collaboration is expected to enhance cross-border legal engagement and create opportunities for knowledge sharing and capacity building among lawyers from both jurisdictions.

Perak Bar Committee

24 August 2025

Seminar Undang-Undang Islam di Taiping, Perak by the Syariah Sub-Committee

On 24 August 2025, the Syariah Sub-Committee successfully organised the Seminar Undang-Undang Keluarga Islam in collaboration with TELENISA and Pertubuhan Wanita Ikhlas Taiping. The seminar was held in Taiping, Perak, with the objective of enhancing understanding of Islamic family law among practitioners and members of the public. The programme featured Dato' Hajjah Shamsuriah binti Sulaiman as the invited speaker.



The response to the seminar was highly encouraging. Registration reached full capacity well before the closing date, reflecting strong interest and relevance of the subject matter. The session was well attended, and participants actively engaged in discussions and question-and-answer segments.

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11 October 2025

Perak Bar (Inaugural) Law Conference 2025 by the Professional Standards and Development Sub-Committee

The Perak Bar Law Conference 2025, held on 11 October 2025, was a cornerstone event of the term. The conference brought together Members of the Bar, members of the judiciary, legal practitioners, and distinguished speakers to engage in meaningful discussions on current legal developments and pressing issues affecting the profession.



The conference featured a keynote address by the Chief Justice and a speech by the Deputy Minister (Law and Institutional Reform). The full-day program featured a series of substantive sessions covering emerging areas of law:

1. **Written Submissions:** Featuring YA Dato' Lee Swee Seng, YA Tuan Su Tiang Joo, and Mr. Kenny Lai.
2. **Family Law Developments:** Featuring YA Datin Paduka Evrol Mariette Peters, Ms. Pushpa Ratnam, and Mr. Wong Chong Ee Matt.
3. **Advocacy & Sentencing:** Featuring YA Datuk Noorin binti Badaruddin, YA Tuan Muniandy a/l Kannyappan, and Mr. Athimulan A/L Muruthiah.

4. **Reflections on the Legal Profession:** Featuring YA Tuan Moses Susayan, Mr. Danial Rahman, and Mr. James Huntzen Ong.
5. **Employment Law:** Featuring YA Tuan Augustine Anthony, YA Tuan Paramalingam, YA Puan Eswary, Dato' Domnic Selvam, and Mr. Muhendaran Suppiah.



24 and 25 October 2025

Annual Perak–Penang Bar Games 2025 by the Sports, Recreation and Sub-Committee

The Perak–Penang Bar Games 2025, held on 24 and 25 October, was a vibrant inter-bar sporting competition promoting camaraderie and healthy rivalry.

Perak Bar achieved victories in several categories, including veteran futsal, women's futsal, premier futsal, pool, table tennis, and premier football.





Although Penang Bar emerged as the overall champion, Perak Bar's performance reflected consistent progress and strong participation across disciplines. The games strengthened professional ties and encouraged continued sporting excellence.





Program Kesedaran Undang-Undang dalam Kalangan Murid/Pelajar dan Orang Asli by the Legal AID and YBGK Sub-Committee

The Program Kesedaran Undang-Undang Dalam Kalangan Murid/ Pelajar, together with outreach initiatives involving the Orang Asli community, formed a significant component of the Perak Bar's community engagement efforts for the term.

The school-based legal awareness programmes were conducted across various districts in Perak, reaching primary and secondary school students. Talks delivered by Members of the Bar addressed pressing issues such as bullying, sexual offences, drug abuse, juvenile crime, and general criminal liability.







In parallel, outreach efforts were extended to the Orang Asli community, including visits to villages such as Kampung Pengkalan Daun. These sessions focused on fundamental legal rights, access to legal aid, documentation issues, and general awareness of civil and criminal remedies.

Chit Chat Session by the Young Lawyers and Pupils in Chambers Sub-Committee



The Chit Chat Session was organised as an informal yet meaningful engagement platform for members of the Perak Bar. The session encouraged candid exchanges between Committee members and the wider membership. Topics discussed included administrative processes, court-related matters, professional challenges, and suggestions for future initiatives.





Terengganu Bar Committee

16 April 2025

Majlis Sambutan Hari Raya Aidilfitri Jawatankuasa Peguam Negeri Terengganu

Majlis Sambutan Hari Raya Aidilfitri Jawatankuasa Peguam Negeri Terengganu ("JPNT") 2025 telah diadakan pada 16 April 2025 bertempat di Dewan Serbaguna, Tingkat 3, Kompleks Mahkamah Kuala Terengganu. Selain ahli-ahli JPNT, majlis ini juga dihadiri oleh Mohd Azhar bin Othman, Pengarah Mahkamah Negeri Terengganu, serta pegawai dan kakitangan Mahkamah Kuala Terengganu.



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11 Jun 2025

Terengganu Bar CPD Talk Series: Perwarisan Harta Orang Yang Hilang (Al-Mafqud)

Bagi sesi 2025/2026, *Terengganu Bar CPD Talk Series* dimulakan pada 11 Jun 2025 dengan ceramah undang-undang bertajuk "Perwarisan Harta Orang Yang Hilang (Al-Mafqud)" yang telah disampaikan oleh Mukhtar bin Abdullah daripada Zamani Mohammad & Co. Ceramah ini bertempat di Seminar Room, Terengganu Bar Building, Rimba Square, Kuala Nerus, Terengganu.





14 Julai 2025

Terengganu Bar CPD Talk Series: Admission of Evidence in Civil Trial



Bagi sesi 2025/2026, Terengganu Bar CPD Talk Series diteruskan pada 14 Julai 2025 dengan ceramah undang-undang bertajuk *"Admission of Evidence in Civil Trial"* yang telah disampaikan oleh Hazri bin Haris daripada Zamani Mohammad & Co. Ceramah ini bertempat di Seminar Room, Terengganu Bar Building, Rimba Square, Kuala Nerus, Terengganu.

2 hingga 4 Oktober 2025

Terengganu Bar Kenyir Trip 2025: Explore, Exchange, Escape and Enjoy

JPNT telah menganjurkan *"Terengganu Bar Kenyir Trip 2025: Explore, Exchange, Escape and Enjoy"*, yang berlangsung dari 2 hingga 4 Oktober 2025. Lebih 40 orang telah menyertai pengembaraan ini.









31 Oktober dan 1 November 2025

Terengganu Bar Family Day 2025

JPNT telah menganjurkan *"Terengganu Bar Family Day 2025"*, yang diadakan pada 31 Oktober dan 1 November 2025.





Malaysian Bar Events

APRIL 2025







7 April 2025

Courtesy visit from Beijing Lawyers Association

9–11 April 2025

Three-day conference titled “Strengthening Cross-Border Legal Advocacy and Policy Engagement of Lawyers to Address Forced Labour in the Malaysia, Indonesia, and the Philippines Corridor”, held from 9 to 11 April



17 April 2025

Bar Wars!















29 April 2025

Engagement session with the Ministry of Housing and Local Government



MAY 2025







10 May 2025

Forum on Judicial Independence in Malaysia: Past Lessons, Current Challenges



15 May 2025









Educational visit featuring 25 Orang Asli students, organised by Global Peace Foundation Malaysia



30 May 2025

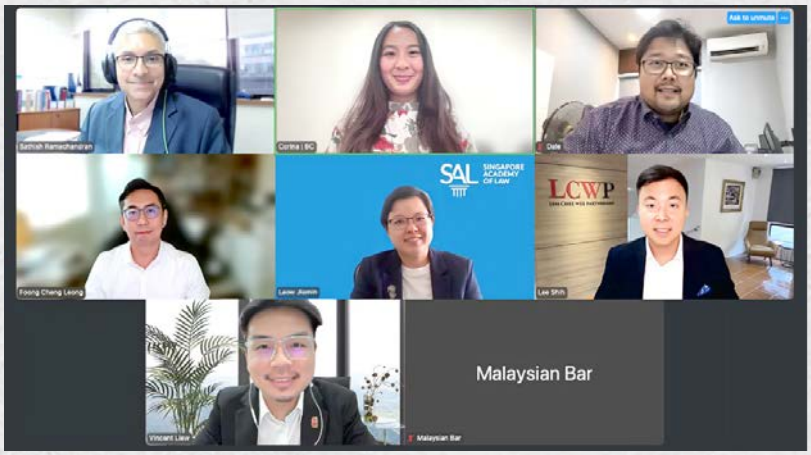
Luncheon meeting with the Associated Chinese Chambers of Commerce and Industry of Malaysia



JUNE 2025

4 June 2025

Defrauded in the Age of AI and Deepfakes: Remedies and Risk Management Webinar



11 June 2025

Perjumpaan rasmi bersama Ketua Hakim Syarie Negeri Melaka





15 June 2025

International Domestic Workers Day 2025 Celebration









JULY 2025

4 July 2025

Battle of the Bands: A Jam Session for Lawyers













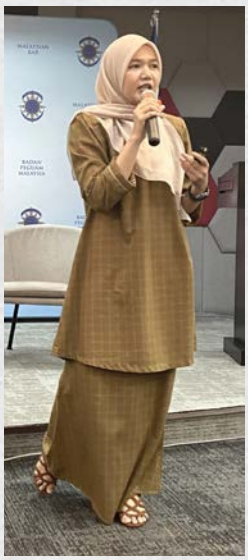
5 July 2025

Cyber Grooming Prevention Programme: Protecting Children from Online Threats











18 July 2025





Town Hall Session on the Roadmap on Minimum Remuneration for Pupils

21 July 2025

Inaugural meeting of the Admiralty Jurisdiction Main Committee











AUGUST 2025

4 August 2025

National Conveyancing Conference 2025















15 August 2025

State Bar Summit 2025









22 and 23 August 2025

Malaysia–Hong Kong Young Lawyers' Symposium 2025













28 and 29 August 2025

35th Presidents of Law Associations ("POLA") Summit in New Delhi, India













SEPTEMBER 2025

21 September 2025

MyBar Carnival 2025











OCTOBER 2025

9, 12 and 15 October 2025

Law Awareness Programme with Schools, an initiative by the Bar Council Legal Aid Centre branches in Perlis, Kedah and Selangor



22 and 23 October 2025

Perjumpaan rasmi bersama Ketua Hakim Syarie Negeri Kedah (22 Oktober) dan Negeri Pulau Pinang (23 Oktober)





23 October 2025

Small Firms Convention 2025





NOVEMBER 2025

11 November 2025

Launch of the Mediation Advocacy Campaign











17 November 2025

Law Reform Engagement Session







27 November 2025

Sesi temu mesra bersama peguam-peguam Sivil-Syarie di Johor













DECEMBER 2025

7 December 2025 Human Rights Festival 2025









10 December 2025

Sharing Session with YB Tan Sri Dato' Dr Johari b Abdul, Speaker of the Dewan Rakyat









11 December 2025

Kunjungan hormat ke Institut Kefahaman Islam Malaysia







21 December 2025

Enhancing Social Protection for Migrant Domestic Workers: Bridging Gaps and Securing Rights



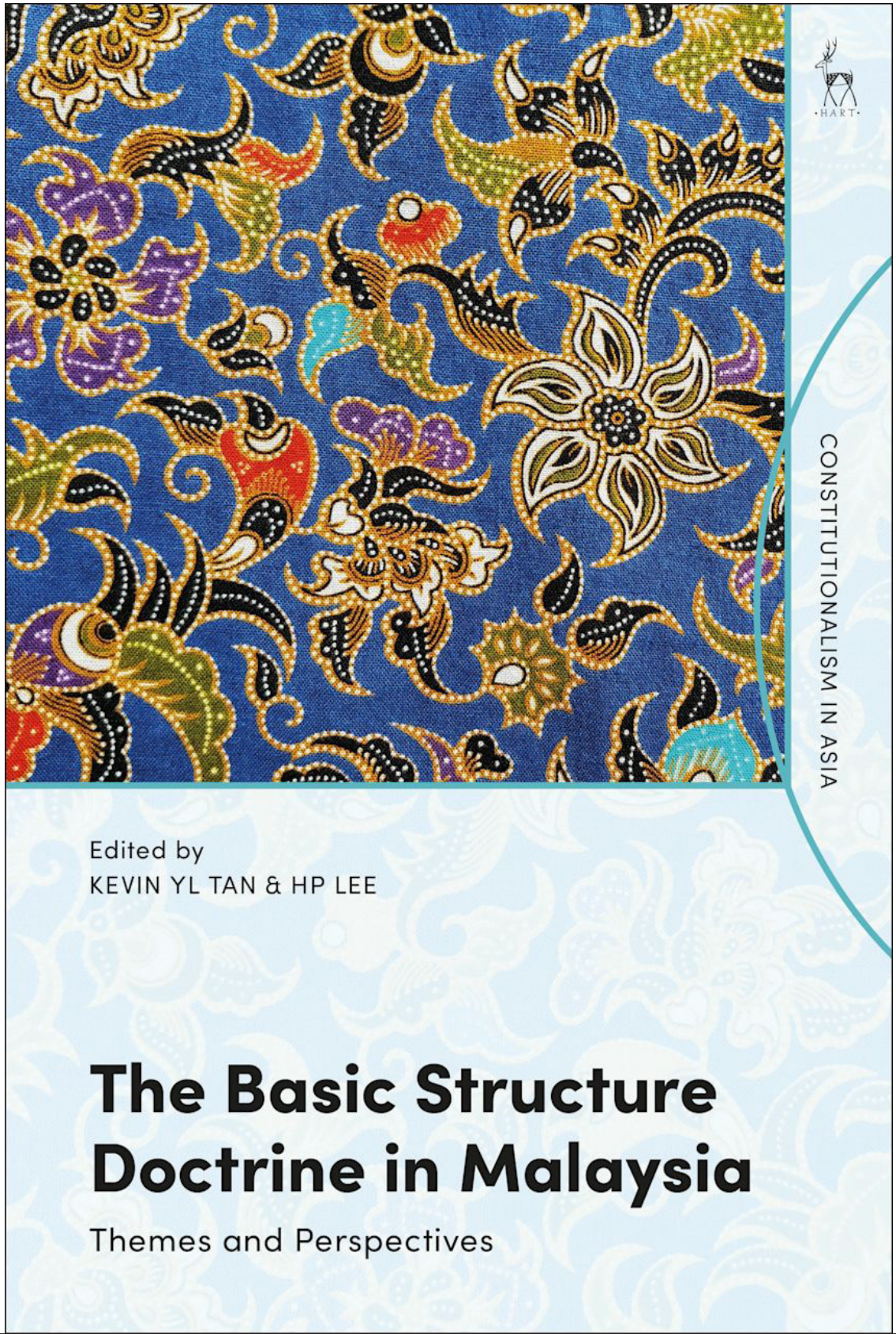






Book Review

The Basic Structure Doctrine in Malaysia
Themes and Perspectives



Book review by
Aimi Syarizad Zaman
Member,
Publications Committee

The Basic Structure Doctrine was introduced by the Indian Supreme Court in the 1973 case of *Kesavanada Bharati v State of Kerala* when the Indian Parliament passed laws that amongst others, sought to expand the Parliament's amending power and curtail property rights. In a narrow 7:6 decision, the highly divided Indian Supreme Court held that while Parliament has the power to amend the Constitution, it cannot alter or destroy its "basic structure". Hence, the Basic Structure Doctrine dictates that while Parliament could amend the Constitution, it had no power to alter its Basic Structure. The concept that certain core features or "Basic Structure of a Constitution" cannot be amended by Parliamentary Will has traversed legal and political boundaries in Malaysia, and over 50 years later, the Malaysian courts remain just as divided as the Indian Supreme Court. Therefore, *The Basic Structure Doctrine in Malaysia: Themes and Perspectives,* comprising 13 essays by eminent academics and legal practitioners, and edited by National University of Singapore's Centre for Asian Legal Studies Adjunct Professor Kevin YL Tan and HP Lee, provides a timely, erudite and multi-faceted examination of this doctrine and its effects on the Malaysian constitutional landscape.

Tan and Lee penned the overview, which serves as an introduction for readers unfamiliar with the Basic Structure Doctrine, while also providing an indispensable orientation on the approach of the text.

The essays are thoughtfully arranged into three broad sections:

1. **Theoretical Overview**

   The essays herein explore the roots of Basic Structure Doctrine, constitutional amendments and the interplay between judicial power and parliamentary supremacy.

2. **The Malaysian Perspective**

   Forming the bulk of the book, the essays herein explore the topical discourse on how the doctrine has been adopted, contested and applied to keep up with Malaysia's contemporary social, economic and political needs.

3. **Comparative Perspective**

   The essays herein offers comparative perspectives on the topic by placing Malaysia's experience in dialogue with other jurisdictions, such as the United Kingdom (which operates a parliamentary sovereign system without a written constitution), Pakistan (which is asserted as being the most analogous to Malaysia), and Australia (which is deemed the Frozen Continent due to the strict requirements of the amendment process, requiring a referendum of the electors).

A critical strength of the book lies in its capacity to take the reader from the doctrine's Indian origin and the doctrine's theory to the distinctive Malaysian reception of the doctrine through the genealogical and thematic approach of the essays. The contributors in the second part of the book tackle a dizzying array of topics from judicial independence to religious freedom, and everything in between. Wilson Tay, in his piece, covers the chequered trajectory of the Doctrine in Malaysia and traverses the corpus of court cases in which the doctrine was engaged. Further, the essays are not merely limited to abstract legal analysis. James Chin's "A Political View from Sabah and Sarawak" and Wong Chin Huat's piece on anti-hopping laws embed the Basic Structure Doctrine within broader political and societal dynamics of the Malaysian landscape. Mohd Nazim Ganti Shaari, in his essay, examines how the doctrine intersects with the sovereignty of the Malay rulers, a topic that highlights Malaysia's unique constitutional monarchy.

In that regard, this book is able to bridge the doctrinal theory, judicial practice and political reality with ease and sophistication to map one of the most politically consequential idea and its effects on contemporary Malaysian constitutional scholarship. Readers will not only have a deeper understanding of the Federal Constitution of Malaysia but also its limits, and be exposed to critical engagement of judicial inconsistencies and political sensitivities in applying the doctrine to our Constitution.

This book is a must-read for constitutional scholars, lawyers, judges, and legislators. It not only captures the current state of the doctrine within Malaysia and is an indispensable record of our living constitutional law, but also frames crucial questions about our constitutional identity, judicial legitimacy and the limits of democratic power — questions that are timely, given the transient state of political majorities in recent times.

Press Releases

3 December 2024 – 10 February 2026

3 December 2024	International Day of Persons with Disabilities 2024 — “Amplifying the Leadership of Persons with Disabilities for an Inclusive and Sustainable Future”
6 December 2024	Legal Profession Act 1976 Amendment Bill on Track to Becoming Law
10 December 2024	Celebrating the Court of Appeal’s 30th Anniversary
10 Disember 2024	Menyambut Ulang Tahun ke-30 Mahkamah Rayuan
12 December 2024	The Malaysian Bar and Embassy of the Republic of Indonesia in Kuala Lumpur Join Hands to Enhance Access to Justice for Indonesian Nationals
12 Disember 2024	Badan Peguam Malaysia dan Kedutaan Besar Republik Indonesia di Kuala Lumpur Berganding Bahu untuk Meningkatkan Akses kepada Keadilan bagi Warganegara Indonesia
19 December 2024	International Migrants Day 2024: Migrants Deserve Dignity, Fairness and Justice
24 December 2024	The Prevention and Control of Infectious Diseases (Amendment) Act 2024
26 December 2024	The Malaysian Bar Calls for an End to Public Caning and Corporal Punishment
28 January 2025	Refugee Interceptions and Detentions: A Call for Action and Reform
3 February 2025	The Malaysian Bar Calls for Justice and Urgent Prison Reforms Following Alleged Assault of Prisoners in Taiping
6 Februari 2025	Badan Peguam Malaysia Menyokong Penyeragaman Sistem Penerimaan Peguam Syarie Tanpa Menjejaskan Hak dan Autonomi Negeri-Negeri
20 February 2025	SOSMA Has No Place in Malaysia
3 March 2025	The Malaysian Bar Commends the Passing of the Media Council Bill 2024 and Calls for Further Improvements to Ensure Independence of the Media
11 March 2025	The Malaysian Bar Presses for the Abolition of the Death Penalty and Calls for Regional Cooperation to Uphold the Right to Life
19 March 2025	The Malaysian Bar Calls for Urgent Inquiry into the Alleged Interference with the Independence of the Judiciary
21 March 2025	Malaysian Bar Calls for Meaningful Institutional Reform in the MACC
25 March 2025	Improvements to the Proposed Gig Workers Bill are Necessary to Ensure the Welfare of Gig Workers

4 April 2025	A Raya Message: Defending Harmony Amidst Rising Violence
4 April 2025	Mesej Sempena Hari Raya: Mempertahankan Keharmonian Dalam Menghadapi Keganasan Yang Meningkat
7 April 2025	The Malaysian Bar Advocates for a Wellness-Based National Policy
10 April 2025	The Malaysian Bar Will Seek to Appear in the Challenge against the Judicial Appointments Commission Act 2009
14 April 2025	The Importance of Judicial Independence and the Preservation of Public Confidence
15 April 2025	In Memory of Tun Abdullah Ahmad Badawi
18 April 2025	Badan Peguam Malaysia Menyeru Reformasi Menyeluruh dalam Pengawasan dan Piawaian Pusat Jagaan Kanak-Kanak dan Warga Emas
22 April 2025	The Malaysian Bar Calls for Constitutional Protection and Effective Support Systems for Persons with Disabilities
28 April 2025	The Malaysian Bar Calls for a Thorough Investigation into Fatal Police Shooting in Seremban Kidnapping Case
6 May 2025	The Malaysian Bar Urges the Malaysian Government to Demonstrate Climate Leadership with a Rights-Based Approach to Climate Governance
7 May 2025	The Malaysian Bar Decries the Inhumane Mass Culling of Stray Dogs in Negeri Sembilan
16 May 2025	The Malaysian Bar Extends Its Deepest Condolences Following the Tragic Loss of FRU Officers and Urges Comprehensive Review of Road Safety Laws
22 Mei 2025	Badan Peguam Malaysia Mendesak Tindakan Menyeluruh Bagi Menjamin Hak Kepada Makanan di Malaysia
30 May 2025	The Malaysian Bar Calls for the Immediate Tabling of the Senior Citizens Bill to Protect Our Ageing Population
4 June 2025	The Malaysian Bar Reaffirms Its Commitment to Regulatory Reform and Business Facilitation through PEMUDAH
5 June 2025	Judicial Extensions, Promotions and Appointments: The Nation Awaits
10 June 2025	Judicial Remuneration — Upholding Principle and Preserving the Integrity of the Judiciary
17 June 2025	International Domestic Workers' Day: Respected, Protected, and Empowered
20 June 2025	World Refugee Day 2025: Solidarity with Refugees
21 June 2025	Launch of Malaysian Bar Awareness Initiatives | Client Account Campaign and MyBar Risk Management Podcast
23 June 2025	Malaysian Bar Announces First-Ever MyBar Carnival 2025: Where Law Meets Community
25 June 2025	Rebuilding the Public Trust Deficit With Regard to Personal Data Collection

25 June 2025	Malaysian Bar Urges Transparency Over Alleged Judicial Interference, Considers Court-Ordered Disclosure of JAC Records
30 June 2025	Uncertainty at the Top Undermines Judicial Independence
2 July 2025	A Familiar Silence: Lessons from the Past Ignored
9 July 2025	Dispelling Misconceptions in the Walk to Safeguard Judicial Independence on 14 July 2025
10 Julai 2025	Menepis Salah Faham Mengenai Perarakan Membela Kebebasan Kehakiman pada 14 Julai 2025
18 July 2025	Malaysian Bar Welcomes Appointments of Chief Justice, President of the Court of Appeal, and Chief Judge of Sabah and Sarawak
18 Julai 2025	Badan Peguam Malaysia Mengalu-alukan Pelantikan Ketua Hakim Negara, Presiden Mahkamah Rayuan, dan Hakim Besar Sabah dan Sarawak
22 July 2025	Enhancing Inclusivity — Malaysian Bar Welcomes PDRM's Commitment to Recording OKU Status in Police Reports
24 July 2025	Malaysian Bar Sets Up Ad Hoc Parliament Liaison Committee to Strengthen Engagements on Law Reform
14 August 2025	Bullying — A Call for Urgent, Decisive Action
15 August 2025	Malaysian Bar Supports the Proposal of a Federal Child Support Enforcement Framework
18 August 2025	Strengthening the Independence of Magistrates and Sessions Court Judges
27 August 2025	Malaysian Bar's Position on the Urban Renewal Bill 2025
10 September 2025	Legislation Needed to Safeguard Children in Childcare Centres
1 October 2025	Understanding the Legal Profession: Who is a Lawyer?
3 October 2025	The Malaysian Bar Condemns Global Sumud Flotilla Interception, Welcomes the Planned Release of Malaysian Nationals, and Urges Urgent Action
6 October 2025	Malaysian Bar Urges for Intervention to Halt the Impending Execution of Pannir Selvam Pranthaman
7 Oktober 2025	Memahami Profesion Undang-Undang: Siapakah Peguam?
24 October 2025	Malaysian Bar Welcomes Mobile Labour Court and Other Access to Justice Initiatives
4 November 2025	The Independence of the Legal Profession and the Bar in a Democratic Society is the Keystone Upon Which the Rule of Law and Constitutionalism are Built
13 November 2025	The Malaysian Bar Welcomes ASEAN's Landmark Declaration on the Right to a Safe, Clean, Healthy and Sustainable Environment
18 November 2025	Continuity in the Judiciary and Judicial Appointments

19 November 2025	The Malaysian Bar Welcomes Amendments to Strengthen Social Protection Under the Employment Insurance System and Employees' Social Security Framework
20 November 2025	Malaysian Bar Calls for Transparency in Judicial Appointments Commission Appointment
20 November 2025	Legal Education Should be Free from Executive Encroachment
21 November 2025	The Malaysian Bar Expresses Concern Over Allegations of Bribery Involving Bank Officers and Law Firm
27 November 2025	Malaysian Bar Welcomes the Court of Appeal Circuit Initiative as a Significant Advancement in Access to Justice
1 December 2025	Malaysian Bar Reiterates that Legal Professional Privilege Must be Upheld
3 December 2025	Malaysian Bar Congratulates the Newly Appointed Chief Judge of Malaya and Other Apex Court Judges
4 December 2025	The Malaysian Bar Demands an Immediate, Independent Investigation into the Disturbing Police Shooting and Leaked Recording
5 December 2025	Malaysian Bar Welcomes the Passing of the Anti-Bully Bill 2025: A Major Step in Protecting Children and Strengthening Justice
10 December 2025	Celebrating International Animal Rights Day in Conjunction with Human Rights Day
11 December 2025	Malaysian Bar Pays Tribute to the Late Bar Council Member, Ravi Chandran Subash Chandran
11 December 2025	Malaysia's Sovereignty is Upheld with the Resolution of the Sulu Claim
12 December 2025	Malaysian Bar Supports Tabling of International Settlement Agreements Resulting from Mediation Bill 2025
18 December 2025	International Migrants Day 2025: "My Great Story: Cultures and Development"
19 December 2025	Malaysian Bar Condemns Online Death Threats against Lawyer and Calls for Urgent and Transparent Action
23 December 2025	Malaysian Bar Receives Memorandum from Orang Asli Organisations and Calls for Meaningful Consultation on Proposed Amendments to the Orang Asli Act 1954
26 December 2025	Strengthening Families Through Reform and Responsible Legal Practice
5 January 2026	The Rising Complexity of Financial Crime in Malaysia
13 January 2026	Third-Party Funding, Arbitral Integrity and Lessons from Recent International Arbitration Developments
27 January 2026	Bangunan Sultan Abdul Samad: A Call for Reinstatement as a Court
10 February 2026	Housing Systems Must Not Bypass Legal Protection for Purchasers

International Day of Persons with Disabilities 2024 — "Amplifying the Leadership of Persons with Disabilities for an Inclusive and Sustainable Future"

3 December 2025

The International Day of Persons with Disabilities, observed annually on 3 December, is a time to honour the invaluable contributions and achievements of persons with disabilities ("PwDs").

It is also a call to action to dismantle barriers, confront inequalities, and build a truly inclusive society. This year's theme — "Amplifying the Leadership of Persons with Disabilities for an Inclusive and Sustainable Future" — underscores the need to empower PwDs to shape a future where equity and inclusion are fundamental.

The Malaysian Bar reiterates its call for the Government to act decisively by amending Articles 8 and 12 of the Federal Constitution to include "disability" as a prohibited ground of discrimination.[1] This omission contradicts Malaysia's obligations under the United Nations Convention on the Rights of Persons with Disabilities ("CRPD"), ratified in 2010. Such an amendment would not only provide explicit legal protection against discrimination, but also send a powerful message affirming the dignity, rights, and equal worth of PwDs in our society.

Beyond constitutional reform, there is an urgent need to harmonise Malaysia's domestic laws with the CRPD. This harmonisation must extend beyond disability-specific legislation to include all laws governing infrastructure, services, and systems. Embedding inclusivity into our legal frameworks is essential to ensuring that PwDs can live with autonomy, dignity, and equality before the law.

The Malaysian Bar calls upon the legal industry to lead by example. This includes:

- **Promoting Inclusive Employment:** Commit to inclusive recruitment, retention, and career advancement opportunities for PwDs within the legal industry; and
- **Advocating Judicial Sensitisation:** Introduce comprehensive training programmes for law enforcement agencies focusing on the human rights and unique challenges of PwDs.

Countries like India[2] and China[3] have taken commendable steps to promote disability-inclusive justice through mandatory judicial training and education on the rights of PwDs. Malaysia must adopt similar initiatives, as outlined in Article 13 of the CRPD.[4] Sensitisation training for judges, lawyers, and law enforcement officials is essential to breaking down systemic barriers and fostering a more equitable justice system.

To ensure accountability and provide avenues for redress, the Malaysian Bar proposes establishing an Independent Tribunal or appointing a Disability Commissioner.

This tribunal or commissioner would:

- address complaints of disability-based discrimination across sectors such as education, healthcare, employment, and accessibility;
- provide effective remedies for discriminatory practices; and
- ensure compliance with domestic laws and international conventions.

Such a mechanism would create a structured, reliable process for PwDs to seek justice and hold perpetrators of discrimination accountable.

As at 31 January 2023, 637,537 PwDs were registered with the Department of Social Welfare (Jabatan Kebajikan Masyarakat), representing approximately 1.9% of Malaysia's population.[5] Between 2022 and 31 May 2024, only 10,766 PwDs joined the workforce.[6] These figures underscore the urgent need for sustained and meaningful action to integrate PwDs into every sector of society.

The Malaysian Bar reaffirms its unwavering commitment to advancing inclusivity, equality, and the rights of PwDs. Legislative reforms, harmonisation of laws with the CRPD, and inclusive practices within the legal community are not just lofty ideals; they are immediate necessities. We cannot wait for change; we must act to create a society where PwDs can live with independence, dignity, and equal opportunity.

Together, let us champion the leadership of PwDs. Let us build a Malaysia that not only complies with international commitments but embodies the principles of justice, fairness, and respect for all. **The time to act is now.**

1 "Press Release | Rights Unseen: The Urgent Need to Include "Disability" in Malaysia's Federal Constitution", Malaysian Bar website, 8 May 2024.

2 "Harmonization of National Laws with the Convention on the Rights of Persons with Disabilities: National Case Study — Republic of India", Economic and Social Commission for Asia and the Pacific ("ESCAP"), page 21.

3 "Harmonization of National Laws with the Convention on the Rights of Persons with Disabilities: Country Case Study — China", ESCAP, page 42.

4 **Article 13 — Access to Justice, CRPD**
- States Parties shall ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.
- In order to help to ensure effective access to justice for persons with disabilities, States Parties shall promote appropriate training for those working in the field of administration of justice, including police and prison staff.

5 Statistik Pendaftaran OKU Mengikut Negeri dan Kategori Sehingga 31 Januari 2023; Statistik Pendaftaran OKU Mengikut Jantina dan Kategori Sehingga 31 Januari 2023; Statistik Pendaftaran OKU Mengikut Peringkat Umur dan Kategori Sehingga 31 Januari 2023; Statistik Pendaftaran OKU Mengikut Etnik dan Kategori Sehingga 31 Januari 2023.

6 "Mesyuarat Kedua, Penggal Ketiga, Parlimen Kelima Belas, 2024" (pages 81 and 82).

Legal Profession Act 1976 Amendment Bill on Track to Becoming Law

6 December 2024

The Legal Profession (Amendment) Bill 2024 ("Amendment Bill") was tabled for its first reading in the Dewan Rakyat (House of Representatives) on 2 December 2024,[1] with the second reading scheduled for 9 December 2024.

Once the amendments enter into force, lawyers will be able to establish Limited Liability Law Partnerships, under the Legal Profession Act 1976 ("LPA 1976"), in conjunction with the limited liability partnership framework, under the Limited Liability Partnerships Act 2012 ("LLP Act"). This provides lawyers with an alternative to the traditional modes of practising law as sole proprietors and conventional partnerships.

The next important amendment to the LPA 1976 is an express recognition of the Bar Council Legal Aid Centre. Although the Malaysian Bar's legal aid scheme has long been operational, with 14 Legal Aid Centres spread across Peninsular Malaysia, placing the scheme on a statutory footing strengthens the Bar's mandate to act in the public interest. The statutory existence of the Bar Council Legal Aid Centre, with a principal office, would promote the streamlining and consistency of operations, thus generating greater efficiency across all Legal Aid Centres.

The amendments to section 77(1) of the LPA 1976 concern the Bar Council's rule-making power to regulate the professional practice, etiquette, conduct, and discipline of lawyers. The amendments seek to expand the regulatory scope of the Bar Council to include the payment of fees, salaries, allowances, and the working conditions of both lawyers and pupils, as well as the admission of lawyers into the profession. Through this, the Bar Council seeks to introduce rules to better regulate the standards and conduct of lawyers, which includes ensuring that lawyers, especially junior lawyers and pupils, receive a fair amount of remuneration.

Next are amendments to the process of pupillage, whereby pupils will be statutorily required to obtain what is referred to colloquially by lawyers as "short-call orders". Such orders will grant pupils a limited right of audience in the Courts. With this amendment, pupils will gain a greater degree of exposure to the practical aspects of legal practice, enabling them to acquire familiarity with court processes and improve their skills, such as advocacy.

The Amendment Bill will bring changes to the LPA 1976 and this is important for a number of reasons: it seeks to modernise the legal profession, improve the welfare of lawyers, and ensure a greater degree of accountability within the profession. By making these advancements, the goal of the amendments is to improve the quality of legal services and to raise public trust in the delivery of these services.

As the Amendment Bill makes its way through the legislative process, it would be opportune to acknowledge and record the Malaysian Bar's appreciation to all who have had a hand in bringing to fruition the much-needed change, with a collective contribution of time, expertise, and skill. It must also be stated that the changes to the LPA 1976 would not have been possible without the unstinting support and cooperation of the Government, for which we are grateful.

The Amendment Bill signifies the beginning of the modernisation of the legal profession. In this regard, the Malaysian Bar will continue its endeavours to ensure that the statutory framework regulating the profession remains relevant to the challenges facing lawyers and the public.

1 "Amendments to Legal Profession Act 1976 tabled for first reading in Dewan Rakyat", *New Straits Times*, 2 December 2024.

Celebrating the Court of Appeal's 30th Anniversary

10 December 2024

The Malaysian Bar honours the Court of Appeal of Malaysia as it celebrates its 30th anniversary. It is with great pride that we commemorate and reflect upon its journey from its establishment in 1994 to the indispensable institution it is today. This historic milestone signifies three decades of unwavering dedication to justice and marks the celebration of an institution that has become a cornerstone of the Malaysian judicial system.

The Court of Appeal was established out of a growing necessity to address the increasing volume of cases requiring appellate review. In its early years, Malaysia's legal system had recourse to the Judicial Committee of the Privy Council in the United Kingdom, which acted as Malaysia's court of final appeal. Malaysia's judicial maturity and independence were affirmed in the abolition of appeals to the Privy Council in 1985. This significant development underscored the nation's confidence in the integrity and capability of its judiciary.

By the early 1990s, the volume of appeals to the Federal Court (then known as the Supreme Court) had grown significantly, necessitating the establishment of an intermediate appellate court. The Malaysian Bar, recognising the pressing need to alleviate the burden on the Federal Court and ensure timely justice, strongly advocated for the creation of the Court of Appeal. The establishment of the Court of Appeal was transformative to the legal sphere of Malaysia, as it assured a more efficient and effective appellate system, reinforcing the principle that justice must not only be done, but must also be seen to be done.

In any thriving democratic society, the right to appeal is a fundamental cornerstone of a fair and equitable justice system. Appeals provide a mechanism to rectify errors of the High Courts and Subordinate Courts, ensuring that justice is properly administered. The role of the Court of Appeal in this regard cannot be overstated: it ensures that errors or oversights of the High Courts and Subordinate Courts do not go unaddressed, while also advancing public confidence in the Malaysian judiciary by refining legal principles and establishing precedents that shape the Malaysian legal landscape.

Over the years, the Court of Appeal has played a pivotal role in maintaining a robust appellate framework. It has been instrumental in upholding and advancing Malaysia's jurisprudence, bringing clarity and decisiveness to legal principles. Its landmark rulings have not only refined the interpretation of laws, but strengthened the legal system by providing clear guidance to the High Courts and Subordinate Courts. These decisions have often been lauded for their intellectual depth and contribution to the development of laws in Malaysia.

The Malaysian Bar takes this opportunity to acknowledge the Judges — past and present — who have served the Court of Appeal with distinction. Their steadfast commitment to the principles of justice and the rule of law has been integral to the Court's success. These Judges have demonstrated an exceptional ability to balance adherence to precedent with the adaptability required to address the nuanced and evolving nature of legal disputes. Their contributions have cemented the Court of Appeal's reputation for delivering justice.

As we celebrate three decades of the Court of Appeal's service to the nation, we also look to its future with optimism and confidence. The legal landscape is ever-changing, and the Court of Appeal's ability to adapt to new challenges, including those posed by technological advancements and evolving societal norms, will be critical in ensuring its continued relevance and effectiveness. The Malaysian Bar remains committed to supporting the Court of Appeal

in its constant objective to uphold justice and maintain public confidence in the judiciary.

On behalf of the Malaysian Bar, I extend my sincerest congratulations to the Court of Appeal on this remarkable achievement. May the Court of Appeal continue to stand as a beacon of justice, fairness, and equality for all.

Menyambut Ulang Tahun ke-30 Mahkamah Rayuan

10 Disember 2024

Badan Peguam Malaysia memberi penghormatan tertinggi kepada Mahkamah Rayuan sempena ulang tahun penubuhannya yang ke-30. Dengan rasa penuh bangga kami memperingati dan melihat kembali sejarah penubuhannya pada tahun 1994 sehinggalah ia menjadi sebuah institusi yang penting hari ini. Pencapaian bersejarah ini melambangkan dedikasi kepada keadilan yang tidak berbelah bagi selama tiga dekad, dan menandakan peraian institusi ini sebagai tonggak sistem kehakiman Malaysia.

Mahkamah Rayuan ditubuhkan atas sebab keperluan mendesak untuk menangani peningkatan jumlah kes yang memerlukan semakan rayuan. Sistem perundangan Malaysia pada awalnya bergantung kepada *Judicial Committee of the Privy Council in the United Kingdom*, yang bertindak sebagai mahkamah rayuan terakhir. Kematangan dan kebebasan kehakiman Malaysia telah terbukti dengan pemansuhan rayuan ke *Privy Council* pada tahun 1985. Perkembangan penting ini menyerlahkan keyakinan negara terhadap integriti dan keupayaan badan kehakimannya.

Pada awal tahun 1990-an, jumlah rayuan ke Mahkamah Persekutuan (yang dikenali sebagai Mahkamah Agung pada masa itu) telah meningkat dengan ketara, sehingga penubuhan mahkamah rayuan perantaraan diperlukan. Badan Peguam Malaysia, menyedari keperluan mendesak untuk mengurangkan beban Mahkamah Persekutuan dan memastikan keadilan diberikan tepat pada masanya, dengan tegas telah menyokong penubuhan Mahkamah Rayuan. Penubuhan mahkamah ini adalah transformatif kepada perundangan di Malaysia, kerana ia menjamin sistem rayuan yang lebih cekap dan berkesan, mengukuhkan prinsip bahawa keadilan bukan sahaja mesti dilaksanakan, tetapi juga mesti dilihat dilaksanakan.

Dalam mana-mana masyarakat demokratik yang maju, hak untuk membuat rayuan merupakan asas utama dalam sistem keadilan yang adil dan saksama. Sistem perayuan memberikan mekanisme untuk membetulkan kesilapan di peringkat Mahkamah Tinggi dan Mahkamah Rendah, untuk memastikan keadilan dilaksanakan. Peranan Mahkamah Rayuan dalam hal ini tidak dapat dinafikan. Ia memastikan bahawa kesilapan atau kekhilafan di peringkat Mahkamah Tinggi dan Mahkamah Rendah tidak dibiarkan begitu sahaja. Ia juga meningkatkan keyakinan awam terhadap badan kehakiman dengan memperhalusi prinsip undang-undang dan menubuhkan duluan (*precedent*) yang membentuk landskap undang-undang di Malaysia.

Selama bertahun-tahun, Mahkamah Rayuan telah memainkan peranan penting dalam mengekalkan rangka kerja sistem rayuan mahkamah yang kukuh. Mahkamah ini berperanan besar dalam memelihara dan memajukan bidang perundangan Malaysia yang membawa kepada penjelasan dan penegasan prinsip undang-undang. Keputusan-keputusan pentingnya bukan sahaja memperhalusi tafsiran undang-undang, malah memperkukuhkan sistem perundangan dengan menyediakan panduan yang jelas kepada Mahkamah-Mahkamah Tinggi dan Rendah. Keputusan-keputusan ini sering dipuji kerana ketelitian intelektualnya serta sumbangannya terhadap perkembangan landskap perundangan di Malaysia.

Badan Peguam Malaysia mengambil peluang ini untuk memberikan penghormatan kepada Hakim-Hakim — yang telah bersara dan yang masih menjalankan tugas — atas khidmat cemerlang di Mahkamah Rayuan. Komitmen mereka yang tidak berbelah bagi terhadap prinsip keadilan dan kedaulatan undang-undang telah menjadi asas kejayaan Mahkamah ini. Para Hakim ini telah menunjukkan kebolehan luar biasa dalam mengimbang kepatuhan kepada duluan dengan kebolehsesuaian yang diperlukan untuk menangani sifat pertikaian undang-undang yang kompleks dan sentiasa berkembang. Sumbangan

mereka telah mengukuhkan reputasi Mahkamah Rayuan sebagai sebuah institusi yang menjunjung keadilan dan kesaksamaan.

Sempena meraikan perkhidmatan Mahkamah Rayuan selama tiga dekad kepada negara, kami juga menaruh harapan dan keyakinan terhadap masa depannya. Landskap perundangan sentiasa berubah, dan keupayaan Mahkamah Rayuan untuk menyesuaikan diri dengan cabaran-cabaran baharu, termasuklah yang dibawa oleh kemajuan teknologi dan evolusi norma masyarakat, menjadi penting untuk memastikan ia kekal relevan dan efektif. Badan Peguam Malaysia akan menyokong Mahkamah Rayuan dalam objektif berterusannya untuk menegakkan keadilan dan memastikan keyakinan awam terhadap badan kehakiman berkekalan.

Bagi pihak Badan Peguam Malaysia, saya ingin mengucapkan setinggi-tinggi tahniah kepada Mahkamah Rayuan atas pencapaian yang luar biasa ini dan semoga Mahkamah Rayuan akan terus berdiri teguh dalam memperjuangkan keadilan, kesaksamaan, dan kesamarataan untuk semua.

The Malaysian Bar and Embassy of the Republic of Indonesia in Kuala Lumpur Join Hands to Enhance Access to Justice for Indonesian Nationals

12 December 2024

It is imperative in every democratic society that access to justice is not an abstract concept but a reality to all, regardless of geographical, economic, or educational barriers.

In furtherance of this commitment and in line with the objectives of the Malaysian Bar,[1] we have entered into a collaboration with the Embassy of the Republic of Indonesia in Kuala Lumpur ("Embassy") to ensure that Indonesian nationals in Malaysia will have access to legal representation.

This collaboration between the Malaysian Bar and the Embassy will see the birth of a new scheme, known as the Indonesian Citizens' Legal Aid Scheme ("I-CLAS"). It will run as a pilot programme throughout 2025 with the participation of three legal aid centres,[2] with a possibility of expansion to cover all states across the nation.

I-CLAS essentially aims to provide Indonesian nationals in Malaysia with access to legal aid in criminal, immigration, labour, family, syariah and such other areas of law that the legal aid centres are able to render advice. In addition, the scheme introduces outreach programmes in an effort to educate the Indonesian community on Malaysian laws and their rights thereunder.

The Malaysian Bar takes pride in being the only Bar among common law jurisdictions to operate its own legal aid scheme, which will be supported through the signing of an agreement with the Embassy that establishes a sustainable funding module. This innovative framework ensures that pro bono volunteer lawyers are not burdened with the financial responsibilities of handling critical cases, such as those involving criminal and immigration matters. By collectively funding the scheme, the Bar enables lawyers to focus on delivering justice without the additional strain of covering operational costs, thereby delivering on its commitment to ensuring justice for all.

We commend the Embassy for stepping up to the call of enhancing access to justice for their nationals in Malaysia. In a similar vein, the Malaysian Bar remains hopeful that more embassies and diplomatic missions would rise to join hands in providing better access to justice for their nationals in Malaysia.

In the pursuit of upholding the rule of law and ensuring that justice is a right rather than a privilege, the Malaysian Bar looks forward to the successful implementation of I-CLAS.

1 Section 42 of the Legal Profession Act 1976 — (g) to protect and assist the public in all matters touching ancillary or incidental to the law; and (h) to make provision for or assist in the promotion of a scheme whereby impecunious persons may be represented by advocates and solicitors.

2 Bar Council Legal Aid Centre (Kuala Lumpur), Bar Council Legal Aid Centre (Selangor), and Bar Council Legal Aid Centre (Perak).

Badan Peguam Malaysia dan Kedutaan Besar Republik Indonesia di Kuala Lumpur Berganding Bahu untuk Meningkatkan Akses kepada Keadilan bagi Warganegara Indonesia

12 Disember 2024

Adalah sangat penting bahawa dalam setiap masyarakat yang demokratik, akses kepada keadilan bukan hanya sekadar konsep abstrak, tetapi merupakan satu realiti untuk semua, tanpa mengira halangan geografi, ekonomi, atau pendidikan.

Dalam usaha untuk mencapai komitmen ini dan selari dengan tujuan Badan Peguam Malaysia,[1] kami telah menjalinkan satu kerjasama dengan Kedutaan Besar Republik Indonesia di Kuala Lumpur ("Kedutaan") untuk memastikan bahawa warganegara Indonesia di Malaysia mendapat akses kepada perwakilan guaman.

Kerjasama antara Badan Peguam Malaysia dan Kedutaan ini akan mewujudkan satu skim baharu yang dikenali sebagai *Indonesian Citizens' Legal Aid Scheme ("I-CLAS") (Skim Bantuan Guaman untuk Warganegara Indonesia)*. Ia akan dijalankan sebagai program rintis sepanjang tahun 2025 dengan penglibatan tiga buah pusat bantuan guaman,[2] dengan kemungkinan diperluaskan untuk merangkumi semua negeri di seluruh negara.

I-CLAS bertujuan untuk memberikan warganegara Indonesia di Malaysia akses kepada bantuan guaman dalam bidang undang-undang jenayah, imigresen, buruh, keluarga, syariah, dan bidang-bidang lain yang pusat bantuan guaman kami boleh memberikan bantuan. Selain itu, skim ini juga memperkenalkan program kesedaran untuk mendidik komuniti Indonesia tentang undang-undang Malaysia dan hak-hak mereka di bawahnya.

Badan Peguam Malaysia berbangga menjadi satu-satunya Badan Peguam dalam kalangan negara-negara *common law* yang mengendalikan skim bantuan guamannya sendiri. Skim ini akan disokong melalui penandatanganan perjanjian dengan Kedutaan yang mewujudkan sebuah modul pembiayaan yang mampan. Kerangka inovatif ini memastikan bahawa peguam sukarela *pro bono* tidak dibebankan dengan tanggungjawab kewangan untuk mengendalikan kes-kes kritikal seperti kes jenayah dan imigresen. Dengan membiayai skim ini secara kolektif, Badan Peguam memberi ruang kepada peguam untuk menumpukan perhatian kepada usaha menegakkan keadilan tanpa tekanan tambahan untuk menanggung kos operasi, sekaligus memenuhi komitmennya untuk memastikan keadilan untuk semua.

Kami menyambut baik usaha Kedutaan untuk mempertingkatkan akses kepada keadilan bagi warganegara mereka di Malaysia. Seiring dengan itu, Badan Peguam Malaysia kekal berharap agar lebih banyak kedutaan dan misi diplomatik akan turut bekerjasama untuk memastikan akses kepada keadilan yang lebih baik bagi warganegara mereka di Malaysia.

Dalam usaha untuk menegakkan kedaulatan undang-undang dan memastikan bahawa keadilan adalah hak, bukannya keistimewaan, Badan Peguam Malaysia berharap bahawa I-CLAS dapat dilaksanakan dengan jayanya.

1 Seksyen 42 Akta Profesion Undang-Undang 1976 — (g) untuk melindungi dan menolong orang ramai dalam semua perkara yang menyentuh, berkaitan atau bersampingan dengan undang-undang; dan (h) untuk membuat peruntukan bagi atau menolong menganjurkan suatu skim yang orang yang tiada berwang boleh diwakili oleh peguam bela dan peguam cara.

2 Pusat Bantuan Guaman Majlis Peguam (Kuala Lumpur), Pusat Bantuan Guaman Majlis Peguam (Selangor), dan Pusat Bantuan Guaman Majlis Peguam (Perak).

International Migrants Day 2024: Migrants Deserve Dignity, Fairness and Justice

19 December 2024

As we mark International Migrants Day 2024, the Malaysian Bar draws inspiration from an impactful statement made by Prime Minister Dato' Seri Anwar Ibrahim: "… but they can't be treated as modern slaves, no matter if they are from Bangladesh or Indonesia or India."[1] This statement, made during a recent visit to Dhaka, Bangladesh, underscores the urgent need for Malaysia to reassess how it values and protects its migrant workforce. Migrants are not mere instruments of economic utility; they are human beings deserving dignity, fairness, and justice.

Malaysia has long benefited from the dedication and hard work of migrants. According to the Department of Statistics Malaysia, as at July 2023, approximately three million migrants resided in Malaysia, accounting for 8.9% of the population. The World Bank's estimates further reveal the broader scale of migration and its connection to the country's economy — between 2.6 and 5.5 million migrants, documented and undocumented, contribute significantly to sectors such as manufacturing, plantations, agriculture, hospitality, and domestic work.

Labour migrants comprise 15.3% of Malaysia's workforce, predominantly in low- and semi-skilled jobs that form the backbone of numerous industries to sustain Malaysia's economic growth.

Despite their contributions, many migrants face systemic challenges that hinder their well-being and dignity. A significant portion of migrants remain undocumented, making them vulnerable to exploitation, abuse, and lack of access to basic rights and services. The recent case involving workers at the Kawaguchi Manufacturing plastics factory highlights the urgent need for enforcement of labour rights. Migrant workers at the factory, who staged a peaceful protest over months of unpaid wages totalling RM806,310, were met with delayed negotiations and inadequate resolutions.[2] This reflects the broader systemic issue of wage theft and labour exploitation that requires immediate redress through stringent enforcement and accountability.

Migrants, particularly women, play a critical role in the care economy, an often-overlooked sector. Ensuring their fair treatment and access to labour protections is vital. Migrants contribute to Malaysia's economy but are often excluded from schemes such as the Employees Provident Fund or Kumpulan Wang Simpanan Pekerja ("EPF" / "KWSP"). Extending access to such protections would signify Malaysia's commitment to equitable treatment. As Malaysia assumes the ASEAN Chairmanship in 2025, it has a pivotal role to play in addressing irregular migration. The ongoing crisis in Myanmar, including the Rohingya genocide, demands Malaysia's leadership in advocating humane solutions and regional cooperation.

International Migrants Day, proclaimed by the UN General Assembly on 4 December 2000,[3] reminds us that migration is driven by aspirations for dignity, safety, and peace. Yet, the journey is often fraught with danger and despair. Malaysia must lead by example in championing migrant rights by becoming a party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, enforcing stricter regulations on recruitment agencies to eliminate exploitative practices, strengthening bilateral agreements to ensure the fair treatment of migrant workers and refugees, and advocating collective ASEAN action to address the root causes of migration, particularly in Myanmar.

The Malaysian Bar urges all stakeholders to reflect on the principles of fairness, dignity, and respect that underpin International Migrants Day. Migrants are not modern slaves; they are partners in progress. Let us honour their contributions and reaffirm our commitment to building a society that values every individual, regardless of their nationality or status. On this International Migrants Day, let us remember that migration is not merely a movement of people; it is a journey toward shared hope and humanity.

1 "Malaysia's Anwar promises Bangladeshi migrant workers will be treated fairly", *Benar News*, 4 October 2024.

2 "Labour dept promises justice for Kawaguchi workers on strike", *Free Malaysia Today*, 17 December 2024.

3 International Migrants Day, UNESCO website.

The Prevention and Control of Infectious Diseases (Amendment) Act 2024

24 December 2024

As the year 2024 nears its end, we find ourselves at a moment of reflection. According to the official portal of the Parliament of Malaysia,[1] 62 Bills have been passed, as at 19 December 2024. While this figure may seem indicative of a robust legislative process, the passing of Bills, in and of itself, is not a full achievement. As the saying goes, "the proof of the pudding is in the eating", and so it is with legislation. True success lies not merely in the enactment of Bills but in the process of their formulation, the transparency of their tabling, and the rigour of their enforcement upon becoming law. The Malaysian Bar

has taken particular note of these aspects, especially concerning the Prevention and Control of Infectious Diseases (Amendment) Act 2024, passed by the Dewan Rakyat through a voice vote on 14 October 2024.[2]

The amendment Act raises several troubling issues. Members of Parliament from across the political spectrum, including government backbenchers and opposition lawmakers, expressed bipartisan concerns about its punitive nature. Provisions such as the excessive fines and imprisonment terms under section 31(3) have drawn criticism for their harshness, especially when applied to low-income individuals or corporate bodies. The proposed maximum fine of RM8,000 and imprisonment of up to two years for individuals, and a fine of up to RM50,000 for corporate bodies, are disproportionately burdensome. These measures risk penalising individuals who may unknowingly contravene rapidly changing regulations during a pandemic.

Additionally, the amendment Act introduces section 21A, granting the Director General of Health the power to issue sweeping directives to individuals or groups for controlling infectious diseases. The lack of clear guidelines for such powers raises fears of potential abuse and double standards in enforcement. Concerns about the enforcement of these powers, especially the use of "force" pursuant to section 14A(2) and tracking devices, underscore the need for mechanisms to prevent misuse and ensure accountability.

The new section 14A further compounds these concerns by introducing what is effectively a form of arrest under the guise of public health measures. Section 14A(1) empowers an authorised officer to order any person suspected of being infected to undergo isolation or surveillance for an indeterminate period. This provision raises significant questions about individual liberty, due process, and proportionality. The powers conferred by section 14A could lead to arbitrary detention without adequate safeguards or judicial oversight. The lack of clear procedural guidelines for implementing these measures risks enabling abuses of power, underhandedly impacting vulnerable populations, and undermining public trust in health authorities. Such sweeping powers must be critically examined and curtailed to prevent misuse.

Furthermore, the approach of the Bill contrasts starkly with the necessity of health education in preventing infectious diseases. Punishment alone cannot foster public trust or compliance. This is further compounded by the increase in general penalties under section 24, which now includes fines of up to RM10,000 and imprisonment terms of up to two years for individuals, with even steeper penalties for corporate entities. While the Government has claimed that these penalties are lighter than those enforced during the COVID-19 pandemic, they remain significantly harsher than previous iterations of the law.

Despite these criticisms, the Malaysian Bar was not effectively consulted during the drafting of this Bill. This omission is deeply troubling, as it undermines the democratic process of lawmaking and the principle of informed decision-making. Effective consultation is not a mere formality but a cornerstone of sound legislative practice. The Malaysian High Court case of *Kerajaan Negeri Selangor v Suruhanjaya Pilihan Raya & Ors* [2017] MLJU 1902 provides guidance on what constitutes a meaningful consultation process. At paragraph 96, the Court endorsed the Sedley criteria,[3] which require that consultations occur at a formative stage, provide sufficient information for intelligent consideration and response, allow adequate time for deliberation, and ensure that the outcomes of consultations are conscientiously considered, before finalising the proposals.

Had these criteria been adhered to, the Government would have been well-informed of the flaws inherent in this Bill. Meaningful engagement with stakeholders, including the Malaysian Bar and public health experts, would have highlighted the excessive measures, the potential for abuse of power, and the lack of emphasis on public education in disease prevention. Instead of addressing the root causes of infectious disease transmission, the Bill has the potential of creating a society where the arbitrary exercise of authority and the fear of disproportionate punishment overshadow the principles of justice, equity, and public health.

As we close the chapter on 2024, let us not only count the Bills passed, but also measure the processes that birthed them. Only through transparent, inclusive, and accountable lawmaking can we ensure that our legislation truly serves the people it is meant to protect.

1 The Official Portal of Parliament of Malaysia website, 2024.

2 "Dewan Rakyat Passes Controversial Act 342 Amendment Bill On Infectious Disease Control", CodeBlue, 14 October 2024.

3 Also known as the Gunning Principles, following the name of the case — *R v Brent LBC, ex p Gunning (1985) 84 LGR 168*. These principles were endorsed by the United Kingdom Supreme Court in *R (Moseley) v Haringey LBC [2014] UKSC 56*.

The Malaysian Bar Calls for an End to Public Caning and Corporal Punishment

26 December 2024

The Malaysian Bar expresses its profound concern regarding the impending public caning of a carpenter in Terengganu tomorrow, 27 Dec 2024.[1] This marks the first instance of such a punishment being carried out in public under the Syariah Criminal Offences (Takzir) (Terengganu) Enactment Amendment 2022. We reiterate our unwavering stance against all forms of corporal punishment, including caning or whipping, as they are inherently cruel, inhumane, and degrading. Such punishments strip individuals of their dignity.

While we acknowledge the significance of upholding laws that preserve public morality and societal harmony, punishments that are carried out must align with Malaysia's commitments to uphold the rule of law, the Federal Constitution, and human rights. Public caning exacerbates the humiliation and anguish experienced by the punished individuals, thus reducing them to objects of public shame rather than encouraging rehabilitation or repentance. This approach undermines the dignity of the individual and can be seen as violating Article 5 of the Federal Constitution. Furthermore, the implementation of public caning exceeds the jurisdictional limitations of the Syariah Courts as set out in the Syariah Courts (Criminal Jurisdiction) Act 1965 [Act 355]. While Act 355 allows for whipping, it does not envisage the punishment being carried out publicly.

Malaysia aspires to be a nation respected for its adherence to human rights standards, yet allowing public caning contravenes international human rights principles, including those enshrined in the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("UNCAT").

It is noteworthy that several Muslim-majority countries have ratified or acceded to UNCAT — an example that Malaysia should follow.[2]

The Malaysian Bar urges the Terengganu State Government and the Federal Government to reconsider public caning practices by reviewing and amending laws that permit such punishments to ensure they are proportionate, rehabilitative, and respectful of human dignity.

Additionally, we call for the total abolishment of corporal punishment in Malaysia. The justice system must strive to balance morality, compassion, and the rule of law.

1 "Terengganu's first public caning for khalwat: No cameras allowed as cops beef up security, limit viewers to 70 this Friday", *Malay Mail*, 25 December 2024.

2 *SUHAKAM Project to Study and Analyse The Compatibility of Malaysian Laws with The United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT): Practical Briefing and Action Paper,* SUHAKAM, 2022.

Refugee Interceptions and Detentions: A Call for Action and Reform

28 January 2025

The Malaysian Bar wishes to highlight the urgent need for the Government to address the plight of refugees and asylum-seekers within Malaysia's borders. This issue has once again come to the fore, following the detention of 196 undocumented Rohingya migrants by the police on the morning of 3 January 2025[1] and the interception of two boats carrying nearly 300 undocumented Myanmar nationals off the southwest coast of Pulau Rebak, Langkawi, by the Malaysian Maritime Enforcement Agency ("MMEA") on the same day.[2]

As at the end of December 2024, the United Nations High Commissioner for Refugees ("UNHCR") reported that 192,240 refugees and asylum-seekers were registered in Malaysia. Of this number, 170,530 individuals are from Myanmar. This includes approximately 111,670 Rohingyas, 27,700 Chins, and 31,150 individuals from other ethnic groups who have fled conflict-affected areas or persecution in Myanmar.[3]

Many of these individuals are likely refugees and asylum-seekers fleeing persecution or conflict. Thus, they are entitled to protection under international law.

The 1951 Refugee Convention and its associated 1967 Protocol (Protocol Relating to the Status of Refugees) outline the international standards for refugee protection, including the principle of non-refoulement. The principle prohibits returning individuals to places where their lives or freedom is at risk. While Malaysia is not a signatory to the Convention and Protocol, it is still bound by this principle as a customary international law. Additionally, Article 14 of the Universal Declaration of Human Rights affirms the right to seek asylum from persecution.

The Malaysian Bar acknowledges the Government's legitimate concerns over border management and national security. Such concerns, however, must be balanced with humanitarian considerations and adherence to international legal obligations. The MMEA's assistance in providing food and drinking water to the intercepted boats[4] is a commendable act of compassion, but it does not address the broader need for systemic solutions to refugee issues.

The Malaysian Bar calls for the enactment of a Refugee and Asylum-Seeker Act to provide a clear and comprehensive framework for managing refugee issues. Such a legislation should define the status of refugees and asylum-seekers, outline their rights and responsibilities, and establish transparent and fair procedures for status determination. It should also guarantee humane treatment and protections for those whose status as refugees or asylum-seekers is confirmed, and those who may ultimately be denied such status. Such a move would address the current gaps and ensure Malaysia complies with its obligations under international law, while also fostering a fair and just domestic system.

The Malaysian Bar also reiterates its calls for a review of immigration laws, to ensure that victims of injustices and/or crimes, and possibly relevant witnesses, are not sent out of the Malaysian jurisdiction, which would defeat one's right to justice.[5]

Alongside these legal reforms, Malaysia should establish a centralised institutional mechanism to manage and support refugees and asylum-seekers. Such a body could coordinate identification, registration, and protection efforts, and serve as a platform for collaboration with other stakeholders.

The Malaysian Bar believes that reforming Malaysia's refugee policies is necessary not only to address this humanitarian crisis, but also to present an opportunity for the country to demonstrate its commitment to justice, humanity, and the rule of law. Transitioning from reactive, short-term measures to a structured, rights-based framework would enhance Malaysia's standing as a responsible global actor while ensuring that vulnerable individuals are treated with dignity and compassion.

The Malaysian Bar reaffirms its commitment to advocating for the rights of refugees and asylum-seekers and urges the Government to take urgent steps to address these critical issues.

1 "196 Rohingya detained upon arrival in Langkawi, MMEA locating 2 more boats", *New Straits Times*, 3 January 2025.

2 "MMEA intercepts two boats carrying nearly 300 undocumented Myanmar nationals off Langkawi", *Malay Mail*, 5 January 2025.

3 "Figures at a glance in Malaysia", UNHCR Malaysia website, 2025.

4 "APMM Temukan Dua Bot Bawa 300 Warga Asing Myanmar di Langkawi", *Bernama*, 4 January 2025.

5 "Resolution Condemning Repatriation in Violation of Court Order, and Enactment of Refugee / Asylum Seeker", Resolution Adopted at the 75th Annual General Meeting of the Malaysian Bar Held on 13 March 2021, Malaysian Bar website, 13 March 2021.

The Malaysian Bar Calls for Justice and Urgent Prison Reforms Following Alleged Assault of Prisoners in Taiping

3 February 2025

The Malaysian Bar is deeply alarmed and saddened by reports of the alleged assault of over 100 prisoners at Taiping Prison,[1] which tragically resulted in the death of an inmate. If confirmed, this incident represents a grave violation of human rights and an affront to the principles of justice that our legal system is meant to uphold.

Every individual, regardless of their status, is entitled to fundamental human rights, including the right to life, personal security, and to be free from inhuman or degrading treatment or punishment. The reported conditions in which inmates were allegedly held in a hall "infested with snakes, centipedes, and strewn with refuse"[2] are appalling and we demand

a comprehensive, transparent, and impartial investigation.

The swift action taken by the police in assuming control demonstrates the authorities' commitment to investigating the matter. The Malaysian Bar emphasises that a thorough and independent inquiry is crucial to ensuring that justice is served and that such abuses do not recur. The investigation must be conducted with full transparency, and its findings must be made public. Those found responsible for this tragic event must be held accountable and face the full force of the law. The principles of equality and non-discrimination are fundamental to the rule of law and justice must be served without exception.

Furthermore, as this incident involves a death in custody, it must be referred to the Coroner, as stipulated under section 334 of the Criminal Procedure Code, to determine the exact cause of death. Any failure to do so would undermine public confidence in the justice system.

This tragedy underscores the critical need for comprehensive prison reform in Malaysia. Overcrowding remains a persistent issue within our correctional facilities, exacerbating tensions, straining resources, and compromising inmate safety.

The Malaysian Bar strongly advocates for systemic reform, including the expansion of alternative sentencing mechanisms to reduce the strain on our prison system. One such option is the wider implementation of Compulsory Attendance Orders under the Offenders Compulsory Attendance Act 1954. By establishing more Compulsory Attendance Centres across Malaysia, non-violent offenders can serve structured rehabilitation programmes instead of being incarcerated in overcrowded and under-resourced prisons.

It is time for a paradigm shift in sentencing — one that recognises that rehabilitation does not solely depend on incarceration. The whole system must move away from the notion that imprisonment is the only effective means of rehabilitation. Instead, alternative forms of punishment should be considered to better serve both justice and the reintegration of offenders into society.

The Malaysian Bar stands ready to support and assist in addressing these serious concerns. We call on the Government to take immediate steps toward comprehensive prison reform to prevent further tragedies. The protection of human rights must not be an afterthought: it is a fundamental obligation of any just society.

The Malaysian Bar remains committed to upholding justice, advocating for the humane treatment of all individuals, and ensuring that the legal system in Malaysia continues to reflect the principles of fairness, dignity, and the rule of law.

1 "Bukit Aman takes over probe on alleged assault of over 100 inmates", *Free Malaysia Today*, 27 January 2025.

2 "Cops investigating death of Taiping Prison inmate, says Perak police chief as families call for probe into alleged abuse", *The Star,* 27 January 2025.

Badan Peguam Malaysia Menyokong Penyeragaman Sistem Penerimaan Peguam Syarie Tanpa Menjejaskan Hak dan Autonomi Negeri-Negeri

6 Februari 2025

Badan Peguam Malaysia dengan penuh keprihatinan menerima baik saranan Senator Dato' Setia Salehuddin Saidin, Ahli Dewan Negara, berhubung cadangan penerimaan Peguam Syarie yang memiliki ijazah daripada universiti yang diiktiraf untuk beramal di Mahkamah Syariah di seluruh Malaysia. Cadangan tersebut, yang dibangkitkan dalam persidangan Dewan Negara pada 19 Disember 2024, adalah relevan dan signifikan dalam memastikan kelancaran serta keberkesanan sistem keadilan Syariah di negara kita.

Jawatankuasa Perhubungan Mahkamah Syariah Majlis Peguam *(Bar Council Syariah Court Liaison Committee)* telah memulakan inisiatif untuk berdialog dengan Peguam Sivil-Syarie di hampir semua negeri di Semenanjung Malaysia dan mendapati bahawa terdapat pelbagai cabaran berkaitan proses penerimaan masuk sebagai pengamal di Mahkamah Syariah. Antaranya ialah perbezaan syarat kelayakan dan prosedur mengikut negeri-negeri.

Dalam menyokong saranan Senator Dato' Setia Salehuddin, Badan Peguam Malaysia mencadangkan agar langkah-langkah penyeragaman syarat kelayakan dan prosedur penerimaan Peguam Syarie dilaksanakan tanpa mengganggu-gugat hak dan autonomi negeri-negeri dalam menentukan hal ehwal agama Islam, termasuk perkara-perkara yang melibatkan perundangan Syariah.

Sebenarnya, peruntukan sedia ada seperti seksyen 68(4) Enakmen Pentadbiran Agama Islam (Negeri Melaka) 2002[1] dan seksyen 80(4) Enakmen Pentadbiran Agama Islam (Negeri Selangor) 2003[2] mempunyai peruntukan yang membenarkan individu yang telah diterima sebagai Peguam Syarie di satu negeri boleh diterima dan dibenarkan beramal di negeri lain, dengan mengemukakan permohonan dan melampirkan keterangan yang menunjukkan bahawa peguam itu telah diterima sebagai Peguam Syarie di negeri tersebut. Badan Peguam Malaysia mencadangkan sebagai permulaan, ia boleh dilaksanakan secara bersyarat atau *ad hoc*. Melalui pendekatan ini, Peguam Syarie akan lebih mudah bergerak dan berfungsi di seluruh negara, sekali gus menggalakkan pencambahan bilangan pengamal undang-undang Syariah yang berkelayakan.

Di samping itu, Badan Peguam Malaysia mengesyorkan agar semua negeri mempertimbangkan untuk menerima pakai Akta Profesion Guaman Syarie (Wilayah-Wilayah Persekutuan) 2019 yang diguna pakai di Wilayah-Wilayah Persekutuan sebagai asas penyelarasan pengawalan tatalaku, etika, dan prosedur pengamal Syariah. Penyatuan peraturan ini akan menjamin keseragaman tanpa berkompromi keunikan atau keperluan khusus setiap negeri.

Diharapkan langkah-langkah ini apabila dilaksanakan akan memperkukuhkan sistem kehakiman Syariah.

1 "68(4) Walau apa pun subseksyen (1) dan (2), mana-mana orang yang telah diterima masuk menjadi seorang Peguam Syarie di bawah mana-mana undang-undang bertulis yang berkuat kuasa di mana-mana Negeri di Malaysia hendaklah diterima masuk sebagai Peguam Syarie bagi Negeri Melaka apabila permohonan dibuat olehnya kepada Majlis dengan menyertakan keterangan yang menunjukkan bahawa dia telah diterima masuk sebagai Peguam Syarie di Negeri lain itu.", **Enakmen Pentadbiran Agama Islam (Negeri Melaka) 2002**, laman web Majlis Agama Islam Melaka (MAIM).

2 "80(4) Walau apa pun subseksyen (1) dan (2), mana-mana orang yang telah diterima menjadi seorang Peguam Syarie di bawah mana-mana undang-undang bertulis yang berkuat kuasa di mana-mana Negeri lain di Malaysia hendaklah diterima sebagai Peguam Syarie bagi Negeri Selangor apabila permohonan dibuat olehnya kepada Majlis dengan menyertakan keterangan yang menunjukkan bahawa dia telah diterima sebagai Peguam Syarie di Negeri lain itu.", **Enakmen Pentadbiran Agama Islam (Negeri Selangor) 2003**, laman web Jabatan Kehakiman Syariah Selangor.

SOSMA Has No Place in Malaysia

20 February 2025

The Malaysian Bar welcomes the directive of the Prime Minister, Dato' Seri Anwar Ibrahim, that the Government reviews and reassesses the Security Offences (Special Measures) Act 2012 ("SOSMA").[1] It was reported that the Government will work towards reviewing the law in order to keep a balance between upholding national security and respecting human rights.[2] The scrutiny of this draconian law is long overdue.

A mere review or piecemeal amendments of SOSMA, however, will not be sufficient to address the deep-seated flaws of the law. The Malaysian Bar firmly maintains that SOSMA must be repealed in its entirety.

Any law governing security offences must operate within the frameworks of justice and due process. SOSMA, by its very nature, however, grants sweeping powers to law enforcement agencies, overriding fundamental rights and liberties enshrined in the Federal Constitution. This creates an environment ripe for misuse of power, where individuals are detained without proper judicial supervision, denied the right to bail, and subjected to a process that undermines their right to a fair trial. The very existence of such a law threatens the integrity of our legal system and the rule of law.

One of the most alarming aspects of SOSMA is the provision that allows for detention without judicial oversight. Under ordinary legal principles, a person who is arrested must be brought before a Magistrate within 24 hours. This is a crucial safeguard to prevent unlawful detention and to ensure that law enforcement agencies operate within legal boundaries. SOSMA extends the period of detention to 28 days without requiring the suspect to be presented before a Magistrate for remand. The 28 days of detention, without judicial scrutiny, is twice as long as the period

of remand provided for under the Criminal Procedure Code.

Further, SOSMA denies the accused the right to be granted bail, except in very limited circumstances. This is a denial of the presumption of innocence — a cornerstone of any fair and just legal system. The granting of bail is to strike a balance between protecting public interest and safeguarding individual liberty, yet SOSMA disregards this altogether, leading to situations where individuals face unnecessarily prolonged detention without trial.

Proponents of SOSMA argue that the law is necessary to combat threats to national security. However, this argument overlooks the fact that Malaysia already has other well-established laws[3] that equip law enforcement agencies with more than enough statutory power to investigate individuals detained for complex security offences. These laws provide mechanisms for thorough investigation and prosecution, and do not erode the fundamental liberties of the accused person in the trial process. The authorities have no justification for resorting to SOSMA when these existing laws already provide the needed legal framework. The existence of SOSMA is therefore not only redundant, but dangerous, as it removes key safeguards that prevent overreach and abuse.

A truly democratic nation does not sacrifice fundamental liberties in the name of national security. National security should never be used as a justification to diminish individual rights or to give unchecked powers to the authorities. The rule of law means that statutory power granted to the authorities or the Executive must remain within legal and constitutional boundaries, not outside of them. Any law that allows for the possibility of unchecked power, arbitrary detention, and the erosion of fair trial rights should not exist in a society that upholds justice.

We are reminded of the third principle of our Rukun Negara — Keluhuran Perlembagaan — which points out that the Federal Constitution is supreme. SOSMA is inconsistent with the principles of constitutional supremacy and natural justice. While the Government's intention to review the law is a step in the right direction, there can be no compromise when it comes to the protection of fundamental liberties.

SOSMA has no place in our maturing democratic nation and is an affront to the principles of natural justice. The Malaysian Bar strongly calls for the Government to take decisive action and abolish SOSMA in its entirety. Malaysia should uphold its commitment to the protection of human rights by repealing all preventive detention laws, beginning with SOSMA.

1 "[UPDATED]: Government to review and reassess Sosma following PM's directive", 14 February 2025, *New Straits Times*.

2 "Sosma review seeks to balance security, human rights: Saifuddin", 15 February 2025, *Malaysiakini*.

3 Penal Code, Criminal Procedure Code, Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007, and Special Measures against Terrorism in Foreign Countries Act 2015, among others.

The Malaysian Bar Commends the Passing of the Media Council Bill 2024 and Calls for Further Improvements to Ensure Independence of the Media

3 March 2025

The Malaysian Bar welcomes the passing of the Malaysian Media Council Bill 2024 ("Bill") in Parliament, which has the objective of establishing self-regulation within the Malaysian media industry.[1] We recognise that free and independent media is fundamental to a functioning democracy, and the passing of this Bill demonstrates the Government's commitment to media freedom and ethical journalism. However, we believe the Bill, in its current form, falls short of ensuring genuine media independence. Had the Malaysian Bar been consulted, these are the concerns and recommendations we would have raised to improve the Bill.

KEY CONCERNS AND SHORTCOMINGS OF THE BILL

(1) The Printing Presses and Publications Act 1984 clashes with the implementation of the Bill

The existence of the Printing Presses and Publications Act 1984 ("PPPA") fundamentally contradicts the very

essence of media self-regulation provided in the Bill. The absolute discretion granted to the Minister of Home Affairs to issue, revoke, or suspend publishing permits under this Act renders any attempt at independent media regulation meaningless. History has shown that such powers have, on occasion, impacted media freedom, as seen in the suspension of *The Heat* in 2013.[2] More recently, reports that the Government is considering amendments to the PPPA to impose further restrictions on media coverage of race, religion, and royalty only reinforce concerns that the media in Malaysia is not independent.[3] As such, the Malaysian Bar has long maintained that the PPPA is an affront to Article 10(1)(a) of the Federal Constitution and should be repealed.[4]

(2) Critical Issues Arising from the Bill

There are several troubling provisions in the Bill itself that risk undermining the independence it seeks to establish:

1. The Bill fails to provide clear definitions of critical terms, such as "ethical and responsible journalism", "media independence", and "rights of media practitioners". This vagueness creates significant room for abuse and arbitrary interpretation. Thus, we would recommend that the Media Council members address this by providing clarity to these terms in the Bill's code of conduct.

2. The code of conduct, which the Media Council would be empowered to create, could restrict news publishers and journalists from reporting on matters deemed "unethical". As such, clear guidelines balancing media freedom with ethical considerations are essential for the code of conduct.

3. The Bill fails to address the rising threats posed by online harms in digital publications, particularly the malicious use of deepfakes and AI (artificial intelligence)-generated disinformation. A responsible media industry requires laws and guidelines that promote integrity in news reporting and safeguard against the spread of misinformation and disinformation, yet this Bill does not provide any framework to tackle these emerging challenges.

4. The current provisions restricting political parties from influencing the media are insufficient. While the Bill prohibits political party members from serving as Chairman of the Media Council by virtue of Clause 9(2),[5] this restriction must be extended to all Board members and key positions to ensure that the Council is not used as a tool for political control.

The Malaysian Bar firmly believes in the principle of self-regulation. Just as Members of Parliament are expected to uphold integrity and democratic values, we trust the media industry to regulate itself with equal accountability. However, this requires robust safeguards within the Bill to prevent political interference, which is essential for fostering a truly mature democracy.

Going Forward

The Malaysian Bar supports this historic self-regulation initiative for the Malaysian media industry. We hope the Media Council will address our concerns and recommendations at its first Annual General Meeting, reflecting them in its code of conduct or relevant guidelines and directives.

The establishment of the Media Council should be fully utilised as a golden opportunity to establish an efficient and cohesive framework for the Malaysian media industry to have complete autonomy and self-governance. The path forward for the Media Council is clear — engage in efforts to repeal the PPPA, ensure that the Council is free from political interference, and guarantee that the Council operates with full autonomy.

1 "Malaysian Media Council Bill Passed, Marking Historic Industry Milestone", *Bernama*, 26 Feb 2025.

2 "Press Release | Repeal the Printing Presses and Publications Act; Independent Regulation to Preserve Independence of Media", Malaysian Bar website, 28 December 2013.

3 "Stricter Printing Presses and Publications Act in the offing?", *The Edge*, 2 December 2024.

4 "Press Release | Repeal the Printing Presses and Publications Act; Independent Regulation to Preserve Independence of Media", Malaysian Bar website, 28 December 2013.

5 Malaysian Media Council Bill 2024, Clause 9(2) states that "Any member of the legislature, or any person who is actively involved in politics or registered with any political party, or any member of the public services, shall not be appointed as the Chairman."

The Malaysian Bar Presses for the Abolition of the Death Penalty and Calls for Regional Cooperation to Uphold the Right to Life

11 March 2025

In the light of the recent last-minute stay of execution granted to Singaporean death row inmate Hamzah Azhar,[1] just days after Malaysian Pannir Selvam was also granted a stay of execution,[2] the Malaysian Bar reiterates its unwavering call for the complete abolition of the death penalty.

The Malaysian Bar has consistently opposed the death penalty on the grounds that it is a cruel, inhumane, and irreversible form of punishment that has no place in a just and compassionate society.[3] A key reason for this is the very real risk of wrongful convictions. Governments and judicial authorities — even in the most developed legal systems — find it difficult to admit that wrongful convictions occur. However, they do happen, and the consequences in death penalty cases are irreversible.[4]

The death penalty has also long been justified by some governments as a tool to deter serious crimes. However, there is no credible evidence to support this claim. The most comprehensive global study on this issue, commissioned by the United Nations in 1988 and updated in 1996, concluded that "research has failed to provide scientific proof that executions have a greater deterrent effect than life imprisonment. Such proof is unlikely to be forthcoming. The evidence as a whole gives no positive support to the deterrent hypothesis."[5]

Further, the death penalty disproportionately affects marginalised communities. This includes people with mental disabilities, individuals who lack access to competent legal representation, and those who face systemic biases in the legal system. In many instances, a defendant's financial resources dictate the quality of their defence, leaving the most vulnerable to bear the brunt of the harshest punishments.[6]

The Malaysian Bar also urges the Malaysian Government to use its ASEAN Chairmanship to initiate regional dialogue and cooperation towards the abolition of the death penalty across Southeast Asia.

The agreement between the Philippines and Indonesia regarding the repatriation of Mary Jane Veloso, a Filipina who has been on death row in Indonesia since 2010, demonstrates that diplomatic and legal mechanisms for prisoner transfer are not only feasible, but can also be a powerful tool for regional cooperation.[7] Mary Jane Veloso was convicted of drug trafficking in Indonesia, but her case sparked widespread concern in the Philippines and internationally due to allegations that she was a victim of human trafficking and was unwittingly used as a drug courier. Over the years, the Philippines consistently sought clemency, legal reviews, and alternative measures that would allow her to return home, while respecting Indonesia's judicial sovereignty.

The latest development — a formal agreement in 2024 where Indonesia acknowledged a proposal from the Philippines for Veloso's repatriation — represents a diplomatic breakthrough. This proposal, facilitated through high-level bilateral talks, envisions allowing Veloso to serve her remaining sentence in the Philippines and be closer to her family, while enabling the Philippines to take responsibility for her rehabilitation and reintegration. The agreement is built on principles of humanitarianism, respect for legal processes, and the preservation of bilateral relations.

This development presents a valuable precedent for Malaysia to seize this opportunity to lead the creation of an ASEAN Multilateral Treaty on Regional Framework on Prisoner Transfers, ensuring that all ASEAN nationals who face incarceration abroad have access to similar processes, anchored in transparency, humanitarian principles, and mutual respect for domestic legal frameworks.

A multilateral ASEAN-wide agreement would institutionalise a consistent approach, reducing the need for *ad hoc* negotiations each time a high-profile case emerges. Such a framework could outline clear criteria for eligibility, procedural safeguards, and the rights of prisoners and their families. Importantly, it would reflect ASEAN's commitment to its people-centred and people-oriented agenda, where the welfare and dignity of ASEAN citizens are prioritised — even in situations where they have run afoul of the law.

By taking the lead in proposing this regional agreement, Malaysia would demonstrate bold regional leadership, foster deeper legal cooperation

within ASEAN, and ensure that no ASEAN citizen is left vulnerable to inconsistent or arbitrary processes when facing imprisonment abroad. This would also position Malaysia as a strong advocate for balancing justice with compassion, reinforcing ASEAN's broader commitment to human rights and the rule of law.

The abolition of the death penalty is not just a matter of policy — it is a statement of who we are as a society. The Malaysian Bar stands firm in its belief that justice must be tempered with mercy and that no legal system should ever take away what it cannot restore — a human life.

1 "After Malaysian Pannir gets reprieve, Singaporean death row inmate Hamzah also granted last-minute stay of execution", *Malay Mail*, 28 February 2025.

2 "Singapore court grants Malaysian death row inmate Pannir Selvam 11th hour stay to execution meant to happen today", *Malay Mail*, 20 February 2025.

3 "Press Release | Abolition of Mandatory Death Penalty a Step Towards the Right Direction, But Abolish Capital Punishment Entirely", Malaysian Bar website, 10 June 2022; "Press Comment | In Commemoration of the World Day Against the Death Penalty, the Malaysian Bar Renews Its Call for the Abolition of the Death Penalty", Malaysian Bar website, 10 October 2020; "Press Comment | The Malaysian Bar Renews its Calls to Abolish the Death Penalty", Malaysian Bar website, 19 November 2020.

4 "Moving Away from the Death Penalty: Arguments, Trends and Perspectives", Office of the High Commissioner for Human Rights, United Nations, 2015.

5 *The Death Penalty: A Worldwide Perspective (Fifth Edition)*, Roger Hood and Carolyn Hoyle, p 238, Clarendon Press, 2015.

6 *Supra* note 4.

7 "Indonesia, Philippines agree details on repatriating Mary Jane Veloso", *Reuters*, 6 December 2024.

The Malaysian Bar Calls for Urgent Inquiry into the Alleged Interference with the Independence of the Judiciary

19 March 2025

At the 79th Annual General Meeting of the Malaysian Bar held on 15 March 2025, the Malaysian Bar overwhelmingly adopted a resolution reaffirming its unwavering commitment to upholding and defending judicial independence. In essence, the resolution:

1. Condemns in the strongest terms any interference with the independence of the Judiciary by the Executive, Legislature, or any other individuals or entities;

2. Rejects any attempts by any person, whether from the Executive, Legislature, the Bar, or any other individuals or entities, to circumvent the constitutional and statutory framework for judicial appointments as enshrined in the Federal Constitution and the Judicial Appointments Commission Act 2009; and

3. Calls upon the Government of Malaysia to establish an independent commission of inquiry to conduct a thorough and transparent investigation into whether there was any interference in the judicial appointments process, as alluded to by the Chief Justice, to determine whether proper constitutional and statutory procedures were followed.

This resolution was adopted in relation to the speech by The Right Honourable Chief Justice of Malaysia, Tun Tengku Maimun binti Tuan Mat at the Opening of the Legal Year 2025. Her Ladyship's remarks suggested that there was potential and/or improper interference in the judicial appointments process by persons outside the established statutory and constitutional framework. Such concerns go to the very heart of judicial independence and the rule of law, which are fundamental pillars of our democracy.

Judicial independence is non-negotiable. The Malaysian Bar has long been at the forefront of protecting this independence, ensuring that the Judiciary remains free from undue influence. The Judiciary must be allowed to function independently, without fear or favour.

The Malaysian Bar welcomes the Prime Minister's statement as reported by the media on 16 March 2025[1] that the Government of Malaysia does not interfere in the judicial deliberation process. We take note that the Prime Minister has consistently reiterated this position on various occasions[2] and we welcome his reassurance.

However, any move to "examine and monitor" the Judiciary — as stated in the Prime Minister's statement on 16 March — outside the current constitutional framework may be construed as interference, and there must be clear justifications for why this idea was even considered.

The Malaysian Bar remains resolute in its commitment to safeguarding judicial independence and ensuring that the Judiciary remains free from undue influence. Any measure that compromises judicial autonomy — whether through Executive overreach, Legislative encroachment, or external interference — risks undermining the fundamental principles of our democracy. The Malaysian Bar will continue to uphold and defend the independence of the Judiciary and will firmly oppose any initiative that threatens this cornerstone of the rule of law.

1 "Anwar reiterates government's commitment to judicial independence", *The Star*, 16 March 2025.

2 "'Enough is enough': PM Anwar says political interference in judiciary a thing of the past", *Malay Mail*, 13 October 2024; "PM Anwar Asserts No Interference in Court Decision on Rosmah's Acquital", *Bernama*, 20 December 2024.

Malaysian Bar Calls for Meaningful Institutional Reform in the MACC

21 March 2025

The Malaysian Bar congratulates Tan Sri Mohamad Salim Fateh Din on his appointment as the Chairman of the Malaysian Anti-Corruption Commission ("MACC")'s Anti-Corruption Advisory Board for the term 2025–2028.[1] Tan Sri Mohamad Salim Fateh Din is tasked to lead with transparency, uphold the highest ethical standards, and ensure that the MACC remains an independent and effective institution. With the weight of his responsibilities and high public expectations, this appointment must translate into effective actions that strengthen public confidence in Malaysia's anti-corruption efforts.

We hope that this tenure will bring about meaningful institutional reform in the MACC, strengthening its independence, integrity, and effectiveness in combating corruption.

The urgency for reform within the MACC has long been evident, particularly in light of past controversies that have tested its institutional resilience. Scandals such as the 1MDB case and the tragic death of Teoh Beng Hock have raised serious concerns about the MACC's transparency, accountability, and ability to function without political interference. Malaysia's stagnant ranking at 57 in Transparency International Malaysia's Corruption Perceptions Index[2] further underscores the urgent need for comprehensive reform.[3]

To address these long-standing issues, the Malaysian Bar calls for structural reform of the MACC, including:

1. Removing the MACC from the Prime Minister's Department ("PMD") and Placing It Under Parliamentary Oversight — The continued placement of the MACC under the PMD raises concerns about executive influence over the agency. The Malaysian Bar urges the Government to expedite the proposed transition of the MACC to operate under the direct purview of Parliament. This reform would institutionalise the MACC's independence, ensuring that its investigations are free from political interference, and reinforcing public trust in its ability to combat corruption impartially;

2. Establishing an Anti-Corruption Service Commission ("ACSC") — This independent body would be responsible for appointing and overseeing the MACC Chief Commissioner and officers to ensure that leadership appointments are merit-based and free from undue influence. The ACSC would also be empowered to remove the Chief Commissioner for misconduct or inability to perform duties, with a fixed tenure of five years to prevent arbitrary dismissals;

3. Restoring the Anti-Corruption Agency ("ACA") Name — Reverting to the original Anti-Corruption Agency ("ACA") name would distinguish the agency from its oversight mechanism, clarify its role, and enhance public confidence; and

4. Enhancing Parliamentary Oversight through a Joint Committee on Corruption ("PJCC") — A bipartisan PJCC should be established to oversee senior MACC appointments and ensure greater accountability. The PJCC should reflect representation from both the House of Representatives and the Senate and chaired by a Member of Parliament from the Opposition to ensure a non-partisan approach to oversight.

The Malaysian Bar firmly believes that the creation of these three key bodies — ACSC, PJCC, and ACA — which are hoped to be operating independently yet subject to mutual oversight is essential to safeguarding the integrity of anti-corruption efforts in Malaysia.

Only through such reforms can the MACC regain public trust and function as a truly independent anti-corruption institution.

The Malaysian Bar further urges the Government to prioritise additional critical reforms to combat corruption, including:

1. Tabling and enacting the Political Financing Bill before the next general election to regulate political donations and prevent undue influence over the democratic process; and
2. Expediting the implementation of the new asset declaration format for senior public officials and Members of Parliament to promote transparency and prevent illicit wealth accumulation.

The Malaysian Bar urges the Government and relevant stakeholders to prioritise these reforms and take concrete steps to strengthen the national anti-corruption framework. We remain committed to advocating a legal and institutional structure that upholds the rule of law and promotes transparency and public confidence in Malaysia's fight against corruption.

1 Salim Fateh Din appointed MACC Anti-Corruption Advisory Board chairman, *The Edge Malaysia*, 19 March 2025.

2 Press Release: Corruption Perceptions Index 2024 press-releases, Transparency International Malaysia, 11 February 2025.

3 Why is MACC still under PM's dept, graft-fighter asks govt, *Free Malaysia Today*, 23 February 2025.

Improvements to the Proposed Gig Workers Bill are Necessary to Ensure the Welfare of Gig Workers

25 March 2025

The Malaysian Bar welcomes the Gig Workers Bill 2025 ("the Bill") as an important step towards providing a clear legal framework for the growing gig economy. Introducing a statutory definition for gig workers and mechanisms for dispute resolution, income protection, and social security contributions represents progress in addressing long-standing regulatory gaps in this sector. However, we note that industry stakeholders, including platform providers, gig workers and experts on this matter, have raised several concerns over the Bill in its existing form,[1] and we believe that further refinement of the Bill, taking into account the concerns raised by the stakeholders, is necessary to achieve a more inclusive and clearly defined framework for regulating the welfare of gig workers. Given the significance of this Bill and due to the high number of gig workers in the economy, we would like to propose the following recommendations to the Ministry of Human Resources ("MOHR") for inclusion in the Bill before it is tabled at the next Parliamentary session:

1. **Clear the ambiguity in the application of the Social Security Organisation ("SOCSO") (Pertubuhan Keselamatan Sosial, "PERKESO") contribution provisions:** The Bill should include how SOCSO contribution requirements will apply to gig workers engaged across multiple platforms. In this regard, MOHR needs to provide clear and comprehensive provisions within the Bill on how this contribution will be made by either the platforms or the workers themselves;
2. **Impact on industry operations:** Platform providers have raised concerns about the proposed consultative council's functions and powers regarding potential limitations on competition and innovation, which could lead to higher service costs for consumers.[2] Therefore, we suggest that further elaboration on the functions of this council is needed, and the powers of the council need to be specified to ensure the practicability of this suggested framework, while also protecting the interests of gig workers and balancing the interests of other stakeholders in the industry;
3. **Look into the strict prohibition on deductions from income, tips and rewards:** The Bill provides strict prohibition with limited exceptions on the deductions of gig workers'

incomes, tips and rewards. At the outset, the application of this provision is seen as rigid and vague. As stated in the Bill, deductions can only be made to rectify overpayments, as specifically authorised by this Bill, other applicable legislation, or with the approval of the Director General as defined in the Bill. It fails to consider practical scenarios such as when a gig worker inadvertently overcharges a consumer or enters into commercial agreements with platform providers, such as those pertaining to loans and rentals. Thus, we propose that further clarification of the implementation of this provision be expanded in the Bill, which includes clearly defining the Director General's discretionary powers, and that the system itself be made more practical to avoid unnecessary bureaucratic red tape;

4. **Ensure clarity of regulatory framework between ministries:** There is a potential regulatory overlap between MOHR and the Transport Ministry in regulating e-hailing and p-hailing drivers. Currently, e-hailing and p-hailing services are regulated under a framework of laws, including the Land Public Transport Act 2010 and the Commercial Vehicles Licensing Board Act 1987. This overlap could create confusion and inconsistencies, especially when grievances arise. Thus, the Bill should draw clear jurisdiction lines between MOHR and the Transport Ministry to provide clarity and ensure a coherent and effective regulatory framework for the e-hailing and p-hailing services, and the broader gig economy; and

5. **Distinguish between gig workers and freelancers:** The Bill treats gig workers who are platform-based (for example, those in the e-hailing and p-hailing sectors) and non-platform-based workers (other freelancers) in similar terms, which overlooks the nuances and differences in their work experiences. While both categories operate outside conventional employment structures, their working conditions, income patterns, and levels of control can vary substantially. Thus, we suggest that it is necessary to include provisions in the Bill that address these distinctions, ensuring that the legislation effectively caters to the diverse needs and realities of both gig workers in the e-hailing and p-hailing sectors as well as other freelancers, rather than applying a one-size-fits-all approach.

Given our recommendations to improve the Bill, we further believe that it is crucial at this juncture to conduct a comprehensive nationwide feasibility study involving all relevant stakeholders[3] to ensure the Bill's effectiveness and to minimise potential undesired knock-on effects on the 3.09 million gig workers in Malaysia.[4]

The Malaysian Bar supports efforts to ensure fair and balanced protections for all stakeholders in the gig economy. We are open to engaging with MOHR and industry stakeholders to refine the Bill before it is tabled at the next Parliamentary session.

1 "Gig Workers Bill needs to be refined, say platforms", *Free Malaysia Today*, 27 February 2025.

2 "Gig industry players raise concerns over draft Gig Workers' Bill", *The Star*, 27 February 2025.

3 "Gig economy platforms welcome refinements to Malaysia's Gig Workers Bill", *Astro Awani*, 4 March 2025.

4 "Gig economy expands in 2024 amid push for increased worker protection", *The Edge Malaysia*, 29 December 2024.

A Raya Message: Defending Harmony Amidst Rising Violence

4 April 2025

As we emerge from the festive spirit of Aidilfitri — a time symbolising unity, forgiveness, and peace — we are confronted with the harsh reality of a recent surge in reported incidents of violence in Malaysia. Disturbingly, these incidents involve not only civilians[1] but also a military officer.[2] From road rage and domestic disputes to public altercations and confrontations involving uniformed personnel, violence has unfortunately become a recurring feature in our news cycle.[3]

Violence, in any form, is never justified — even in retaliation. There is a line that must not be crossed, whether one is a civilian, or a military or enforcement

personnel. While the right to self-defence is protected, it must not escalate into unnecessary force or retaliation. Our laws are clear: the Penal Code addresses acts of violence comprehensively,[4] stipulating punishments ranging from fines to imprisonment, depending on the severity and circumstances. These provisions make it unequivocally clear that violence, irrespective of motive, is unlawful.

In addition to enforcing the law, it is essential to prioritise prevention. Identifying and addressing the root causes of violence — such as poverty, lack of education, and social inequality[5] — can significantly reduce the occurrence of violent acts. As a society, we must foster open dialogues about anger management, conflict resolution, and emotional intelligence from an early age, integrating these values into our educational systems.

Furthermore, community-based initiatives and mental health support can empower individuals to resolve disputes peacefully and seek help without resorting to violence. It is crucial that we not only react to violence but also work proactively to build a culture where empathy, understanding, and mutual respect, thrive. By reinforcing these principles, we create an environment where violence is neither tolerated nor perpetuated, ensuring a safer and more harmonious society for all.

Allowing violence to persist fosters a dangerous culture where frustration translates into harm, undermining the rule of law. As a nation, we must collectively condemn all forms of violence — be it on the streets, in homes, or within enforcement ranks. It is through restraint, wisdom, and faith in justice that Malaysia can truly progress as a civil, just, and humane society.

Let us not allow emotions to dictate our actions. Let the law guide us forward, fostering a society where justice prevails over chaos.

Given the subject matter addressed and as today marks the 57th anniversary of Martin Luther King, Jr's assassination,[6] it is only fitting to conclude with the following excerpt from his book, Where Do We Go from Here: Chaos or Community?:

> *"The ultimate weakness of violence is that it is a descending spiral, begetting the very thing it seeks to destroy. Instead of diminishing evil, it multiplies it. Through violence you may murder the liar, but you cannot murder the lie, nor establish the truth. Through violence you murder the hater, but you do not murder hate. In fact, violence merely increases hate. So it goes. Returning violence for violence multiplies violence, adding deeper darkness to a night already devoid of stars. Darkness cannot drive out darkness; only light can do that. Hate cannot drive out hate; only love can do that."*[7]

1 "'Ramadan slap' in Malaysia goes viral as social media responds with satire", *South China Morning Post*, 21 March 2025.

2 "Anggota tentera tumbuk pemandu wanita sudah ditahan", *Sinar Harian*, 30 Mac 2025.

3 "Malaysia Plagued by Slapping Disorder? Another Slapper Caught on Camera", *The Rakyat Post*, 25 March 2025.

4 "Section 319: Hurt" is defined as causing bodily pain, disease, or infirmity to any person; "Section 320: Grievous hurt" covers more severe harm, such as permanent loss of sight, hearing, or dismemberment; and "Section 323: Punishment for voluntarily causing hurt" provides for imprisonment of up to one year, or a fine of up to RM2,000, or both.

5 "Addressing the Escalating Crisis of Youth Violence in Malaysia", Emir Research, 24 April 2024.

6 Assassination of Martin Luther King, Jr., Encyclopaedia Britannica, last updated 28 March 2025.

7 *Where Do We Go from Here: Chaos or Community?* Dr Martin Luther King, Jr, Beacon Press, 1967.

Mesej Sempena Hari Raya: Mempertahankan Keharmonian Dalam Menghadapi Keganasan Yang Meningkat

4 April 2025

Dalam kemeriahan suasana Aidilfitri — yang melambangkan perpaduan, kemaafan, dan keamanan — kita berhadapan dengan realiti kejam peningkatan insiden keganasan yang dilaporkan di Malaysia. Lebih merisaukan, insiden-insiden ini bukan sahaja melibatkan orang awam,[1] tetapi turut melibatkan seorang anggota tentera.[2] Daripada keganasan jalan raya dan pertikaian rumah tangga kepada pertengkaran di tempat awam dan konfrontasi yang melibatkan pegawai beruniform, keganasan malangnya telah menjadi isu yang sering kali muncul dalam berita.[3]

Tiada justifikasi untuk keganasan dalam apa jua bentuk — walaupun sebagai satu tindak balas. Semua ada batasnya, sama ada seseorang itu orang awam, anggota tentera atau pegawai penguatkuasa. Walaupun hak untuk mempertahankan diri dilindungi, ia tidak boleh mencetuskan kekerasan atau tindak balas yang keterlaluan. Undang-undang kita jelas: Kanun Keseksaan menangani perbuatan keganasan secara komprehensif,[4] dengan menetapkan hukuman yang merangkumi denda hingga pemenjaraan, bergantung kepada tahap keseriusan dan keadaan sesebuah kes. Peruntukan-peruntukan ini dengan jelas menunjukkan bahawa keganasan, tanpa mengira motif, adalah menyalahi undang-undang.

Di samping penguatkuasaan undang-undang, langkah-langkah mencegah keganasan harus diutamakan. Mengenal pasti dan menangani punca-punca asas keganasan — seperti kemiskinan, kekurangan pendidikan, dan ketidaksamaan sosial[5] — boleh mengurangkan perbuatan keganasan secara signifikan. Sebagai sebuah masyarakat, kita harus menggalakkan dialog terbuka mengenai pengurusan kemarahan, penyelesaian konflik, dan kecerdasan emosi sejak umur yang muda, dengan mengintegrasikan nilai-nilai ini dalam sistem pendidikan kita.

Selain itu, inisiatif berasaskan komuniti dan sokongan kesihatan mental boleh memperkasakan individu untuk menyelesaikan pertikaian secara aman dan mendapatkan bantuan tanpa menggunakan keganasan sebagai jalan keluar. Adalah penting bagi kita untuk tidak hanya memberi reaksi terhadap perbuatan keganasan, tetapi juga berusaha secara proaktif untuk membina dan mengembangkan budaya empati, persefahaman, dan sifat saling menghormati. Dengan memperkukuhkan prinsip-prinsip ini, kita mewujudkan persekitaran yang tidak bertolak ansur terhadap keganasan dan tidak membiarkannya berterusan, memastikan masyarakat yang lebih selamat dan harmoni untuk semua.

Membenarkan keganasan berterusan hanya akan memupuk budaya yang berbahaya — rasa kecewa yang mengakibatkan kemudaratan — yang menjejaskan kedaulatan undang-undang. Sebagai sebuah negara, kita haruslah bersama-sama mengecam semua bentuk keganasan — sama ada di jalan raya, dalam rumah, atau dalam kalangan pegawai penguatkuasaan. Dengan kesabaran, kebijaksanaan, dan keyakinan kepada keadilan, Malaysia boleh terus maju sebagai masyarakat yang beradab, adil, dan berperikemanusiaan.

Jangan biarkan emosi menentukan tingkah laku kita. Biarkan undang-undang membimbing kita ke hadapan dan memupuk konsep keadilan mengatasi kekacauan dalam masyarakat.

Dengan mengambil kira isu ini dan memandangkan hari ini adalah ulang tahun ke-57 pembunuhan Martin Luther King, Jr,[6] adalah memang sesuai untuk membuat kesimpulan dengan petikan daripada buku beliau yang berjudul Where Do We Go from Here: Chaos or Community?:

> *"The ultimate weakness of violence is that it is a descending spiral, begetting the very thing it seeks to destroy. Instead of diminishing evil, it multiplies it. Through violence you may murder the liar, but you cannot murder the lie, nor establish the truth. Through violence you murder the hater, but you do not murder hate. In fact, violence merely increases hate. So it goes. Returning violence for violence multiplies violence, adding deeper darkness to a night already devoid of stars. Darkness cannot drive out darkness; only light can do that. Hate cannot drive out hate; only love can do that."*[7]

1 "Ramadan slap' in Malaysia goes viral as social media responds with satire", *South China Morning Post*, 21 March 2025.

2 "Anggota tentera tumbuk pemandu wanita sudah ditahan", *Sinar Harian*, 30 Mac 2025.

3 "Malaysia Plagued by Slapping Disorder? Another Slapper Caught on Camera", *The Rakyat Post*, 25 March 2025.

4 "Section 319: Hurt" is defined as causing bodily pain, disease, or infirmity to any person; "Section 320: Grievous hurt" covers more severe harm, such as permanent loss of sight, hearing, or dismemberment; and "Section 323: Punishment for voluntarily causing hurt" provides for imprisonment of up to one year, or a fine of up to RM2,000, or both.

5 "Addressing the Escalating Crisis of Youth Violence in Malaysia", Emir Research, 24 April 2024.

6 Assassination of Martin Luther King, Jr., Encyclopaedia Britannica, last updated 28 March 2025.

7 *Where Do We Go from Here: Chaos or Community?* Dr Martin Luther King, Jr, Beacon Press, 1967.

The Malaysian Bar Advocates for a Wellness-Based National Policy

7 April 2025

In conjunction with World Health Day, celebrated annually on April 7, the Malaysian Bar calls on the Government to adopt and implement a comprehensive legal framework to address Malaysia's worrying obesity rate through a wellness-based national policy.

As a nation where 54.5% of the adult population is classified as overweight or obese,[1] we face an increasing number of non-communicable diseases, including diabetes and heart conditions, and mental health challenges. While medical advice should be adequate to educate the public on the importance of healthy living, legal reform is also necessary to incentivise and encourage healthy choices.

The Malaysian Bar commends the Government's ongoing efforts in tackling the obesity crisis through health and nutrition policies, such as the National Plan of Action for Nutrition of Malaysia III (2016–2025) ("NPANM III"). NPANM III adopts a multidisciplinary approach and collaboration across various government agencies and sectors, and its policy action in combating obesity includes the introduction of a sugar-sweetened beverage tax and public education campaigns.[2]

However, while these initiatives represent important steps, they remain largely fragmented and non-binding. There is currently no comprehensive legal framework in NPANM III that coordinates cross-ministerial accountability with other stakeholders in relation to food regulation, health education, and urban design sustainability. Thus, the Malaysian Bar proposes a wellness-based national policy initiative as a solution to address these gaps. The following are key legislative elements that need to be included in this policy initiative:

(1) Formation of a National Council on Obesity Prevention, chaired by the Ministry of Health, with representation from all relevant ministries, professional bodies, and non-governmental organisations ("NGOs"), to ensure sustainable coordination, transparent governance, and annual reporting of health metrics;

(2) Promote the integration of pedestrian-friendly infrastructure and public fitness amenities into urban development plans by the relevant ministries; and

(3) Implement tiered taxation on the sale of products scientifically proven to be unhealthy, thereafter channelling the revenue into a National Wellness Fund that could be used to support the implementation of health and nutrition policies.

This policy initiative would form the basis for a structured, law-driven approach grounded in enforceable regulations and cross-sectoral collaboration. It reflects the Malaysian Bar's belief that the law can and must be a tool for positive societal transformation. The right to health is a human right and should be a legislative priority. The law must rise to the challenges of our times to meet the needs of the situation.

The Malaysian Bar affirms its commitment to assist the Government — specifically the Ministry of Health — in this legislative endeavour, to promote the health, dignity, and well-being of all Malaysians.

"Laws for a Healthier Nation, Justice for a Better Tomorrow"

1 "National Health & Morbidity Survey 2023: Non-Communicable Diseases and Healthcare Demand", Ministry of Health Malaysia, Institute for Public Health, 2023.

2 "National Action Plan of Action for Nutrition of Malaysia III: 2016–2025", Ministry of Health Malaysia, National Coordinating Committee on Food and Nutrition (NCCFN).

The Malaysian Bar Will Seek to Appear in the Challenge against the Judicial Appointments Commission Act 2009

10 April 2025

On 8 April 2025, an Originating Summons was filed by lawyer, Datuk Wira Syed Amir Syakib Arsalan b Syed Ibrahim, seeking, *inter alia*, a declaration that the Judicial Appointments Commission Act 2009 ("JAC Act") is unconstitutional, null, and void on the grounds that it is inconsistent with Article 122B of the Federal Constitution.[1]

This legal challenge, while raising fundamental constitutional questions, also underscores the basic right of every citizen to seek judicial pronouncements on constitutional questions of public importance. This right forms the bedrock of our democratic fabric and stands as a living embodiment of the rule of law — a principle that must be vigilantly protected and carefully nurtured.

The Malaysian Bar emphasises that any legal challenge should not be viewed through a lens of sensationalism or provocation. Rather, it calls for a calm, measured, and principled discourse, guided at all times by the imperatives of transparency, constitutional fidelity, and unwavering respect for the independence of the Judiciary.

In this regard, we reiterate that we remain resolute in our ongoing commitment to engaging with the Government of Malaysia on the pressing need for reforms to the JAC Act. For years, the Malaysian Bar has consistently advocated for amendments to the Act, addressing key concerns such as the need to reduce the judge-centric composition of the JAC in order to foster greater diversity and inclusivity, as well as reviewing the role of the Executive in the appointment process.

As part of our recent efforts, the Bar Council Civil Law and Law Reform Committee is presently finalising a comprehensive suite of proposed amendments, which will be submitted as part of our consultative engagement with the Government.

Further, the Malaysian Bar intends to appear in the proceedings initiated by Datuk Wira Syed Amir Syakib Arsalan b Syed Ibrahim to advance the perspectives we uphold, which are consistent with the preservation of constitutional order and judicial independence.

We also recognise the subsequent press statement issued on 9 April 2025 by Prime Minister, Dato' Seri Anwar Ibrahim, stating that the Government is committed to vigorously defending the JAC Act in court, while concurrently undertaking a comprehensive review of the JAC framework.[2] We take note of the Prime Minister's unequivocal assurance that there shall be no interference whatsoever in the judicial process. This assurance is vital in preserving public confidence in the separation of powers and the integrity of the legal system.

The Malaysian Bar reaffirms its unwavering commitment to upholding the rule of law, safeguarding the independence of the Judiciary, and supporting reforms that enhance the credibility and resilience of our legal institutions. We have full confidence in the Judiciary's pivotal role as the guardian of the Federal Constitution and the final arbiter in matters of constitutional interpretation.

At all times, the Malaysian Bar stands ready to cooperate in any genuine consultation process, to intervene when judicial independence is imperilled, and — when necessary — to defend it; to cooperate in shaping reforms that are principled, transparent, and constitutionally sound; to intervene whenever the sanctity of judicial independence is at risk; and to defend, resolutely and without hesitation, the Judiciary from any and all forms of external encroachment.

This is our solemn duty — and we shall not waver.

1 "Lawyer launches constitutional challenge against Judicial Appointments Commission's judge appointment power", *The Edge Malaysia*, 9 April 2025.

2 "Anwar: Govt to proceed with review of Judicial Appointments Commission framework, acknowledges legal challenge", *The Edge Malaysia*, 9 April 2025.

The Importance of Judicial Independence and the Preservation of Public Confidence

14 April 2025

Over the past few days, public statements[1] have been made against the Chief Justice of Malaysia arising from views expressed by Her Ladyship. These statements, regrettably, have not only taken Her Ladyship's comments out of context but have also sensationalised them to a degree that threatens to erode the very public trust upon which the Judiciary depends.

The recent remarks, as reported by the media, by former Minister in the Prime Minister's Department in charge of legal affairs and judicial reform, Dato' Seri Mohamed Nazri Abdul Aziz ("Dato' Seri Nazri"), raise several points of concern. He alleges that the Chief Justice, The Right Honourable Tun Tengku Maimun binti Tuan Mat, had insinuated political interference in the Judiciary, and took Her Ladyship's endorsement of the removal of the Prime Minister's role in judicial appointments out of context — portraying it misleadingly as a direct affront to the Prime Minister, Dato' Seri Anwar Ibrahim. In addition, he called on her not to make political remarks.

Contrary to the reported representations made by Dato' Seri Nazri, Her Ladyship stated the following in her Keynote Address on 8 April 2025 at the 24th Commonwealth Law Conference held in Malta (6–10 April 2025):

> **[37] Of late, there have been proposals to amend the Judicial Appointments Commission Act 2009 and the Federal Constitution to remove the role of the Prime Minister in the appointment of judges. Such changes in my view, would reinforce the impartiality of the selection process, ensuring that judicial appointments remain firmly grounded on merit and free from any perception of political influence.**[2]

To characterise the above call for reform as a "political remark" misses the point. The statement was clearly directed at necessary reforms, and Her Ladyship expressed her views in a measured and objective tone.

The doctrine of separation of powers remains a cornerstone of any functioning democracy. An integral part of that doctrine is the assurance that the process of judicial appointments is insulated from political influence. While no system may be entirely perfect, it is imperative that every effort be made to safeguard the Judiciary from undue interference.

In this regard, robust and reasoned public discourse should not only be permitted, but encouraged. Meaningful debate — grounded in fact and driven by public interest — is essential in fostering accountability and in strengthening the very institutions we seek to protect.

The credibility of the courts depends not only on the quality of its judges, but on the integrity of the process by which they are appointed.

The Malaysian Bar remains steadfast in its defence of judicial independence — not merely as a legal doctrine, but as a lived reality.

1 "Nazri slams chief justice's 'political interference' jibe, demands proof", *Free Malaysia Today*, 14 April 2025.

2 Speech by The Right Honourable The Chief Justice Of Malaysia Tun Tengku Maimun Binti Tuan Mat on the Occasion of the 24th Commonwealth Law Conference: "Judicial Independence and Parliamentary Sovereignty — A Colossi of Roads?", Malaysian Bar website, 9 April 2025.

In Memory of Tun Abdullah Ahmad Badawi

15 April 2025

The Malaysian Bar expresses its heartfelt condolences and profound sadness on the passing of Tun Abdullah Ahmad Badawi, Malaysia's 5th Prime Minister, who passed away yesterday. The Malaysian Bar extends its deepest sympathies to the family and loved ones of Tun Abdullah Ahmad Badawi.

Fondly known as "Pak Lah", Tun Abdullah Ahmad Badawi will be remembered as a leader who embodied

humility, integrity, and moderation. His tenure as Prime Minister from 2003 to 2009 marked a period of meaningful institutional reform, with renewed emphasis on good governance, transparency, and the strengthening of democratic institutions.

Among his notable contributions was his role in accelerating efforts that led to the establishment of the Judicial Appointments Commission ("JAC") in 2009 — an initiative that promoted greater transparency and accountability in judicial appointments. This was a significant milestone in restoring and preserving the independence of the Malaysian judiciary, and one that resonated deeply with the Malaysian Bar's long-standing advocacy for judicial reform.

Tun Abdullah's legacy also includes his emphasis on civil discourse, interfaith understanding, and a leadership style that prioritised listening, compassion, and respect for the rule of law.

The Malaysian Bar pays tribute to the late Tun Abdullah Ahmad Badawi with deep respect and honour. His contributions to the nation — particularly in laying the groundwork for institutional integrity — will be remembered with gratitude.

With deep respect, the Malaysian Bar mourns the passing of Tun Abdullah Ahmad Badawi.

Badan Peguam Malaysia Menyeru Reformasi Menyeluruh dalam Pengawasan dan Piawaian Pusat Jagaan Kanak-Kanak dan Warga Emas

18 April 2025

Badan Peguam Malaysia memandang serius terhadap laporan penderaan dan eksploitasi kanak-kanak serta warga emas di pusat-pusat jagaan, termasuk kes terbaru yang membawa kepada penutupan sebuah pusat jagaan kanak-kanak di Cheras.1 Kami mengecam sekeras-kerasnya sebarang bentuk penderaan, pengabaian, dan eksploitasi terhadap golongan rentan ini.

Insiden-insiden sedemikian bukanlah kejadian yang terpencil. Ia mencerminkan kelemahan sistemik dalam kawal selia pusat jagaan, baik dari segi perundangan, pemantauan, mahupun pelaksanaan dasar.

Sebagai sebuah negara yang menjunjung hak asasi manusia dan kedaulatan undang-undang, Malaysia tidak seharusnya membiarkan pusat jagaan yang tidak berdaftar terus beroperasi tanpa pemantauan dan kewajipan untuk memenuhi standard minimum, sehingga menyebabkan ia beroperasi dalam keadaan kucar-kacir, tidak terurus, dan tanpa akauntabiliti.

Badan Peguam Malaysia ingin mengingatkan bahawa terdapat banyak pusat jagaan — sama ada untuk kanak-kanak mahupun warga emas — yang berhadapan dengan isu-isu seperti yang disenaraikan di bawah:

1. Kekurangan penguatkuasaan dan pemantauan berkala terhadap pusat jagaan kanak-kanak dan warga emas tidak berlesen;
2. Ketiadaan latihan dan pentauliahan wajib untuk penjaga yang bertugas dengan golongan rentan;
3. Penderaan fizikal, emosi, dan pengabaian yang tidak dilaporkan atau gagal ditangani dengan cekap;
4. Liabiliti perundangan yang kabur serta kekeliruan antara bidang kuasa agensi Kerajaan, seperti Jabatan Kebajikan Masyarakat Malaysia ("JKM"), Pihak Berkuasa Tempatan, dan Kementerian Kesihatan Malaysia;
5. Kos penjagaan yang tinggi dan tiada skim sokongan mampan untuk golongan berpendapatan rendah;
6. Infrastruktur yang tidak selamat atau tidak sesuai untuk penjagaan jangka panjang;
7. Kurangnya ketelusan dan laporan awam, termasuk data penderaan, kematian, mahupun pengauditan dalaman;
8. Stigma dan sikap masyarakat yang enggan bertanggungjawab atau tidak melaporkan kejadian kerana bimbang imej akan tercemar;
9. Ketiadaan mekanisme aduan yang selamat dan sesuai untuk kanak-kanak dan warga emas, yang membolehkan golongan ini membuat laporan mengenai penderaan atau layanan buruk dengan berkesan;
10. Ketiadaan Lembaga Pelawat yang dilantik oleh JKM bagi setiap pusat jagaan swasta

untuk membuat lawatan dan penilaian berkala demi memastikan kebajikan penghuni dan pengurusan pusat berjalan dengan baik; dan
11. Tiada pemantauan yang khusus terhadap pengurusan kewangan pusat jagaan bagi memastikan ketelusan dalam penggunaan dana awam dan sumbangan yang diterima.

Meskipun terdapat usaha oleh Kerajaan untuk mengawal selia pusat jagaan melalui Akta Pusat Jagaan 1993 dan Akta Kanak-Kanak 2001, masih wujud kelemahan dalam usaha-usaha pelaksanaan dan penguatkuasaan.

Sehubungan itu, Badan Peguam Malaysia menyeru agar perkara-perkara berikut dapat dilaksanakan:

1. Penguatkuasaan bersepadu dan audit berkala terhadap semua pusat jagaan, sama ada berdaftar atau tidak;
2. Pendaftaran mandatori dan penstrukturan latihan bersijil dengan kurikulum yang komprehensif untuk semua pengendali dan penjaga pusat jagaan;
3. Sistem laporan awam tahunan mengenai prestasi, aduan, dan insiden dalam pusat-pusat jagaan;
4. Insentif kewangan atau subsidi penjagaan kepada keluarga-keluarga B40 bagi membolehkan mereka mendapat akses kepada penjagaan yang selamat dan berkualiti;
5. Kempen kesedaran peringkat nasional bagi mendidik masyarakat untuk lebih peka terhadap hak dan kesejahteraan penghuni pusat-pusat jagaan;
6. Mekanisme aduan yang selamat dan sesuai untuk kanak-kanak dan warga emas bagi membolehkan mereka membuat aduan dengan berkesan;
7. Pelantikan Lembaga Pelawat yang dikendalikan JKM untuk membuat lawatan dan pemantauan secara berkala di setiap pusat jagaan swasta; dan
8. Pelantikan juruaudit dan akauntan bertauliah untuk memantau pengurusan kewangan pusat-pusat jagaan, untuk memastikan ketelusan dan akauntabiliti sumbangan awam dan dana operasi pusat-pusat tersebut.

Badan Peguam Malaysia mengulangi komitmen untuk terus memperjuangkan hak, keselamatan, dan maruah golongan rentan. Kes yang baru terjadi ini bukan sekadar satu kes terpencil — ia adalah panggilan untuk bertindak, dan peluang untuk memperbetulkan dasar sedia ada dengan pendekatan yang menyeluruh dan manusiawi (*humane*). Marilah kita bersama-sama menjadikan negara ini sememangnya selamat untuk mereka yang paling rentan dalam kalangan kita.

1 "Pusat jagaan tular diarah tutup, semua kanak-kanak diselamatkan – KPWKM", *Astro Awani*, 11 April 2025.

The Malaysian Bar Calls for Constitutional Protection and Effective Support Systems for Persons with Disabilities

22 April 2025

The Malaysian Bar is deeply dissatisfied with the continued lack of legal certainty and institutional safeguards for persons with disabilities ("PwDs") in Malaysia. While estimates indicate that over four million Malaysians are living with some form of disability, only about 700,000 are currently registered with the Department of Social Welfare. This significant gap in registration must not be viewed as apathy or disengagement by the PwD community, but rather as a reflection of systemic shortcomings that have yet to be addressed.

The Malaysian Bar is not calling for mandatory registration of PwDs. Instead, we believe that if the root issues — such as inadequate support, legal ambiguity, and lack of meaningful inclusion — are addressed, registration will increase organically. When people with disabilities are assured of dignity, access, and rights, they will be more inclined to participate in a system that recognises and empowers them.

The Ministry of Women, Family and Community Development's continued reliance on general constitutional provisions to justify the *status quo* is both concerning and insufficient. If protection for PwDs is indeed guaranteed, why do individuals still need to resort to the courts for recognition of their rights? The recent decision in *Ch'ng B'ao Zhong v Public Services Commission* underscores this

very problem: legal ambiguity forces marginalised individuals to litigate for what should already be transpicuous and protected.

This is why the Malaysian Bar has long urged for constitutional clarity — for "disability" to be expressly included as a protected ground under Articles 8 and 12 of the Federal Constitution. This is not a matter of symbolism, but a necessary foundation for ensuring that equality and non-discrimination for PwDs are not left open to interpretation.

We reiterate our call for:

(1) amendments to the Federal Constitution to expressly recognise disability as a prohibited ground of discrimination;
(2) comprehensive reforms to policy and legislation that go beyond token commitments and ensure full access to rights, services, and protections;
(3) revision of all financial aid schemes to ensure they meet the national poverty threshold, especially for PwDs without family support or employment; and
(4) transparent and inclusive planning that engages PwDs and advocacy groups in the design and delivery of policies that affect their lives.

The current levels of assistance — monetary and otherwise — fall well below what is needed to enable an independent and dignified life for many PwDs. When support is minimal and uncertain, and when inclusion is conditional or poorly implemented, registration becomes less about recognition and more about risk.

It is unjust to ask the disabled community to step forward into a system that has yet to prove its commitment to their well-being. Justice must precede compliance; certainty must precede registration; and protection must precede participation.

The Malaysian Bar will continue to mobilise its Members to assist, advise, and, where necessary, file actions to seek declarations and remedies to defend the rights of PwDs. If the Executive remains unwilling to make rights certain, the legal community stands ready to do so through the courts, through advocacy, and through the rule of law.

Keadilan melalui undang-undang.
Justice must not only be promised — it must be made real.

The Malaysian Bar Calls for a Thorough Investigation into Fatal Police Shooting in Seremban Kidnapping Case

28 April 2025

The Malaysian Bar is deeply concerned by the fatal police shooting of a 21-year-old man who was a suspect in a kidnapping case in Klang, Selangor, on 14 April 2025. The incident took place when the police attempted to stop the suspect's vehicle following a kidnapping earlier that week. The suspect failed to comply, and a chase ensued, during which he drove against the flow of traffic and crashed into a police car. An alleged shootout took place after that, during which the suspect was shot and killed.[1]

We acknowledge that a pistol and a parang were reportedly found in the suspect's vehicle after the shooting, but we also note that, as reported, the suspect had no prior criminal record. Regardless of the details surrounding this particular case, the loss of life should never be treated lightly, and the use of lethal force must always be measured and proportionate. The situation must be thoroughly investigated to ensure that any action taken by law enforcement officers is in line with established protocols and the fundamental principles of justice.

This tragic incident highlights a recurring pattern of police claims that weapons were found in the possession of deceased individuals following fatal shootings. In the case of Aminulrasyid Amzah, the then-Selangor police chief, Tan Sri Khalid Abu Bakar, had alleged that the 14-year-old had criminal links, and that a parang was found in the car. However, the Court of Appeal later held that it was not proven how the parang came to be in the car, and found Tan Sri Khalid Abu Bakar liable for malfeasance.[2] This pattern must be addressed, as it raises concerns about accountability and erodes public trust in the police. The Malaysian Bar calls for greater transparency in police operations, particularly in cases involving the use of lethal force, and urges that all facts surrounding such incidents be made public.

Statistics on police shootings in Malaysia point to a deeply worrying trend. In 2024, there were 35 police shooting incidents across 11 states involving 75 individuals — 36 of whom were killed — marking a sharp rise in fatalities and a broader geographic spread compared to 2023.[3] For the year 2025, as of today, we have found six reported cases of police shootings.

The Malaysian Bar reiterates its call for prompt and independent inquests to be held in all cases of deaths caused by police shootings. Inquests are necessary to uncover the full facts surrounding each incident, establish the legality of the use of force, and uphold public confidence in law enforcement. Furthermore, it is crucial that any available recordings, including bodycam or dashcam footage, be thoroughly examined during the inquest process. To date, no footage has been publicly released from any of these cases, and it is vital that these recordings, if available, are made part of the investigation to ensure transparency.

The Malaysian Bar emphasises the importance of upholding the right to life, which is enshrined in the Federal Constitution of Malaysia. Even in cases involving individuals suspected of criminal activity, it is not the role of the police to act as judge, jury, and executioner. The right to a fair trial, as well as the presumption of innocence, must always be respected. Law enforcement officers are entrusted with the responsibility to protect public safety, but the use of force should always be the last resort, in accordance with both national and international standards.

As regards the kidnapping case, the Malaysian Bar commends the police for arresting six other individuals in connection. We support the ongoing investigation into this matter and, at the same time, call for a full and independent review of the circumstances surrounding the police shooting.

We urge the authorities to ensure that all actions taken by law enforcement officers are consistent with the principles of justice, proportionality, and respect for human rights.

1 "Suspect in kidnapping case killed in police shootout in Klang", *Free Malaysia Today*, 15 April 2025.

2 "Family of Aminulrasyid, who was killed by police, finally gets justice after eight years", *The Straits Times*, 29 March 2018.

3 "Launch of SUARAM's Malaysia Human Rights Report 2024", SUARAM website, 10 April 2025.

The Malaysian Bar Urges the Malaysian Government to Demonstrate Climate Leadership with a Rights-Based Approach to Climate Governance

6 May 2025

The Malaysian Bar welcomes Prime Minister Dato' Seri Anwar Ibrahim's statement following the Climate Change Action Council meeting on 21 April 2025, in which he emphasised the crucial need for a collective national effort to combat climate change.[1]

ACTION AT THE NATIONAL LEVEL

In this regard, the Malaysian Bar calls on the Government to adopt a rights-based approach to climate governance in Malaysia, especially in the ongoing drafting of the Climate Change Bill (Rang Undang-Undang Perubahan Iklim Negara, "RUUPIN").

RUUPIN, which will form the heart of Malaysia's climate governance framework, must integrate human rights principles. It must ensure that Malaysia's climate laws and policies respect, protect, and fulfil the rights of all individuals — especially the most vulnerable — and present and future generations (see the preamble of the Paris Agreement). In so doing, RUUPIN would align with Malaysia's sustainable development agenda, international human rights standards, and climate obligations.

At present, the Consultation Paper for RUUPIN dated 4 October 2024 indicates the absence of a rights-based approach.

The Malaysian Bar thus urges the Government to ensure that RUUPIN explicitly and adequately protects and fulfils the rights of the Malaysian people. Framing RUUPIN from a rights-based approach entails a comprehensive range of elements. The Malaysian Bar considers it essential to emphasise two particularly significant aspects among them:

(1) Addressing climate change as a human rights issue

Recognising that the adverse effects of climate change directly and indirectly threaten the enjoyment of a wide range of human rights, including the following:

(I) **Right to life** (Article 5(1) of the Federal Constitution): Climate impacts can lead to loss of life and increased mortality rates;
(II) **Right to a clean, healthy, and sustainable environment:** Malaysia, together with many other countries, have voted to pass a resolution at the United Nations General Assembly on 28 July 2022 to declare the right to a clean, healthy, and sustainable environment a universal human right. This right has also been judicially interpreted to be a constitutional right, implicit in Article 5(1) of the Federal Constitution. In the context of the climate crisis, this means the right to be free from the adverse effects of climate change (see *M. K. Ranjitsinh & Ors. v Union of India & Ors.* 2024 INSC 280);
(III) **Right to health:** Heatwaves, floods, air pollution, and the spread of diseases exacerbated by climate change impact health;
(IV) **Right to food:** Changes in agricultural patterns and extreme weather can threaten food security;
(V) **Right to water and sanitation:** Droughts and floods can disrupt access to clean water and sanitation;
(VI) **Right to housing:** Displacement due to floods, rise in sea levels, and extreme weather can lead to homelessness; and
(VII) **Right to self-determination and cultural rights:** Climate change can disproportionately affect indigenous peoples and their traditional ways of life.

(2) Accountability and redress

Accountability involves placing a legally enforceable duty on the Government to fulfil its obligations under the law. This duty is directly connected to the rights of the people, whereby the Federal, State, and local governments are duty-bearers. This would also provide a legal basis for citizens and civil society to hold the Government accountable if it fails to meet its climate obligations. Establishing such legal duties on the Government is a significant demonstration of an all-of-nation approach to climate action, where the citizens are expected, and empowered, to engage actively. Additionally, parliamentary oversight should be legislated to increase accountability of the Government; for example, mandating Executive proposals and reports to be submitted to, and debated, in Parliament.

This enables both branches of the Government — the Legislative (ie Parliament) and Judiciary — to provide checks and balances for Executive powers and actions on climate change issues. This would help our climate governance framework withstand multiple political cycles.

ACTION AT THE ASEAN LEVEL

As the ASEAN Chair for 2025, Malaysia should demonstrate climate leadership by championing the right to a clean, healthy, and sustainable environment, as provided for under Article 28(f) of the 2012 ASEAN Human Rights Declaration.

Malaysia can advance this leadership by calling on all ASEAN member states to strengthen the upholding of this right (to a clean, healthy, and sustainable environment) in their respective legal systems, whether through explicit constitutional recognition or enhanced implementation measures. The justification for this call is strong:

- This right is already recognised by ASEAN member states in the 2012 ASEAN Human Rights Declaration;
- Many member states have already committed to the Sustainable Development Goals, ESG (environmental, social, and governance), and Business and Human Rights principles;
- Strengthening this right will make ASEAN economies more competitive across global markets; and
- ASEAN member states share a vulnerability to the impact of climate change.

The call for regional leadership builds upon Malaysia's existing international commitment to climate justice, demonstrated by its co-sponsorship of the landmark Human Rights Council resolution (adopted on 8 October 2021) establishing the right to a clean, healthy, and sustainable environment as a human right.

THE WAY FORWARD

To fulfil its obligations and establish a robust climate governance framework, the Malaysian Bar urges the Malaysian Government to:

(1) ensure that RUUPIN explicitly recognises people's right to a safe, clean, healthy, and sustainable environment, and adopts a rights-based approach throughout the legislation; and

(2) commence concrete steps to amend the Federal Constitution to expressly recognise the right to a safe, clean, healthy, and sustainable environment. This will pave the way for Malaysia to lead by example as it calls on ASEAN member states to strengthen their respective recognition of this right.

Undertaking these measures will strengthen the legal foundation of our climate governance and position Malaysia to play a lasting and strategic role in climate action within ASEAN.

1 "Anwar stresses collective effort in combating climate change", *New Straits Times*, 21 April 2025.

The Malaysian Bar Decries the Inhumane Mass Culling of Stray Dogs in Negeri Sembilan

7 May 2025

The Malaysian Bar is deeply alarmed by the recent decision made by the State Government of Negeri Sembilan to embark on the mass culling of stray dogs. We firmly oppose this move and emphasise that it not only offends public morality, but is an outright act that contravenes the Federal legislation, in particular, the Animal Welfare Act 2015 (Act 772) ("Animal Welfare Act"). This Act binds all State and local Governments acts, laws, and regulations.

The Animal Welfare Act only allows for the killing of animals pursuant to section 30(1) of the Animal Welfare Act in limited circumstances, such as when there is an overpopulation; and further strictly sets the limitation on how and by whom the killing may be carried out. The killing of animals is to be performed humanely, ie only by a registered veterinarian or an authorised person under veterinary supervision after consideration of the animals' health, behaviour, and adoptability.

What is currently being undertaken or proposed in Negeri Sembilan is an illegal act of mass capture and killing by enforcement officers or contracted workers without veterinary oversight, which is a clear contradiction of section 30(1) of the Animal Welfare Act, with regard to the management of strays. The action by the Negeri Sembilan State Government is an outright offence pursuant to section 29 of the Animal Welfare Act that criminalises the causing of unnecessary pain or suffering to an animal.

The local councils hold no position or authority to cull dogs. In fact, contrary to public statements from local councils or state authorities, there is no provision under the Local Government Act 1976 or any municipal by-law that gives councils the authority to cull stray dogs of their own accord.

Any such actions relating to the curbing of overpopulation, specifically by culling, must be done in conformance with the Animal Welfare Act, and can only be performed by veterinary professionals. The action by the State Government in unilaterally executing stray dogs is inhumane and amounts to a breach of both procedural and substantive law.

The Negeri Sembilan State Government and local councils are urged to immediately halt all culling activities that contravenes section 30 of the Animal Welfare Act. In fact, it is the duty of the Department of Veterinary Services ("DVS") to intervene immediately to prevent these irregularities in ensuring due compliance with the provisions within the Animal Welfare Act. We call upon the Animal Welfare Board to perform their duties and ensure a stop to this genocide of stray dogs in Negeri Sembilan.

The Attorney General's Chambers is subsequently urged to review these potential breaches of the Federal laws by taking the appropriate legal action against such an impending atrocity. In addressing the issues relating to stray overpopulation, one must do so with compassion and with the assistance of the legal principles present before them.

The Malaysian Bar supports the curbing of the stray overpopulation through the "Trap-Neuter-Release-Manage" ("TNRM") strategy, responsible pet ownership campaigns, partnership with civil society and animal welfare groups, and legislative reform to close gaps in enforcement and coordination between State and Federal agencies.

The Malaysian Bar reiterates that there is no legal justification for inhumane or indiscriminate culling. Humane killing or euthanasia, where absolutely necessary, must follow the law and be carried out only by qualified professionals. The current actions in Negeri Sembilan appear to violate these standards and risk undermining the rule of law and public trust.

The Malaysian Bar Extends Its Deepest Condolences Following the Tragic Loss of FRU Officers and Urges Comprehensive Review of Road Safety Laws

16 May 2025

The Malaysian Bar conveys its deepest condolences to the families, colleagues, and loved ones of the nine Federal Reserve Unit ("FRU") officers who lost their lives in the tragic road accident near Teluk Intan, Perak, on 13 May 2025.[1] This incident occurred just within two days of the fatal collision between a poultry lorry and an elephant calf along the East-West Highway in Gerik-Jeli on Sunday morning, which triggered an outburst of emotions among Malaysians.[2]

The officers were returning to their base in Ipoh after completing their duties during the Chitra Pournami festival when the vehicle transporting them was involved in a collision with a lorry reportedly laden with stones. This incident is a devastating blow not only to the Royal Malaysia Police, but to the nation as a whole, as we mourn the loss of nine public servants who were engaged in service to the people.

We acknowledge the authorities' immediate response in initiating investigations. While we must not prejudge the outcome, this tragedy must compel us to confront a deeper issue: the safety of our roads, particularly in relation to heavy vehicles. Earlier this year, more than 15,000 road accidents and 123 deaths were recorded in Malaysia during the Hari Raya travel period in April. Accidents are not confined to the festive period, as the total number of road accidents between 29 March and 6 April was 15,246, 3.8 per cent higher than the figure during the Hari Raya travel period between 6 April and 14 April in 2025, numbering 14,674.[3]

These figures paint a grim picture and raise urgent questions about regulatory enforcement, driver vetting, vehicle maintenance, and overall traffic safety management involving commercial and heavy transport vehicles.

The Malaysian Bar is of the view that this latest incident cannot be treated as a one-off or passing matter. There is a pressing need for a thorough and transparent review of our existing laws and systems relating to road transport and safety. The framework must be examined in full — from the standards applied to driver licensing and background checks, to the inspection and maintenance of vehicles, and the enforcement powers of the relevant authorities. If our laws or enforcement mechanisms have gaps, they must be addressed without delay. The safety of all road users must be treated as a national priority.

We urge the Government to ensure that the families of the officers receive full and adequate support, including financial assistance, counselling, and other welfare aid. These families have made the ultimate sacrifice, and their pain must not be borne in silence or without support.

The Malaysian Bar stands in solidarity with the families of the deceased, and we share in the nation's grief. We also reaffirm our readiness to contribute to any legislative or policy initiatives aimed at reforming and strengthening Malaysia's road safety regime. Let this not be just another moment of mourning, but a catalyst for reform. We owe it to those who died in service — and to all Malaysians (including wildlife) — to ensure our roads are governed by laws that prioritise life and safety above all else.

1 "FRU truck crash: Death toll rises to nine, all FRU personnel", *The Star*, 13 May 2025.

2 "Mother elephant's grief over calf killed by truck sparks outcry, renews calls for wildlife crossings", *Malay Mail*, 12 May 2025.

3 "Road accidents up in Malaysia's Hari Raya rush in 2025, totalling over 15,000", *The Straits Times*, 27 April 2025.

Badan Peguam Malaysia Mendesak Tindakan Menyeluruh Bagi Menjamin Hak Kepada Makanan di Malaysia

22 Mei 2025

Sebagai Pengerusi ASEAN untuk tahun 2025, Malaysia berada dalam kedudukan yang amat strategik untuk menerajui usaha serantau dalam memperkukuh sekuriti makanan dan hak kepada makanan sebagai satu hak asasi manusia yang asas dan universal. Komitmen ini selari dengan pelaksanaan Dasar Agromakanan Negara 2.0 (2021–2030), yang berperanan penting dalam memodenkan sektor agromakanan negara menerusi pendekatan pertanian pintar, pembangunan pasaran, pemerkasaan modal insan, kelestarian sistem makanan, serta persekitaran perniagaan yang kondusif.[1] Dalam kerangka kepengerusian ASEAN, Malaysia berpeluang mengetuai kerjasama serantau yang lebih erat dalam sektor pertanian mampan, seterusnya memperkukuh jaminan hak kepada makanan dan sekuriti makanan di seluruh rantau Asia Tenggara.

Walaupun tiada laporan kebuluran berlaku di Malaysia, kewujudan ketidaktentuan makanan dalam kalangan segmen tertentu masyarakat seperti golongan gelandangan, dan golongan yang hidup dalam kemiskinan yang amat atau kais pagi makan pagi, kais petang makan petang, adalah realiti yang mesti diberi perhatian. Di kawasan bandar, bantuan makanan kepada golongan-golongan ini masih banyak bergantung kepada inisiatif pertubuhan bukan kerajaan dan badan sukarela, tanpa jaminan yang bersifat sistematik melalui dasar bersepadu peringkat kebangsaan yang berpaksikan hak. Situasi ini mencerminkan keperluan mendesak untuk merumuskan suatu pendekatan dasar yang lebih terancang dan berorientasikan hak asasi bagi menjadikan akses kepada makanan sebagai satu jaminan negara, dan bukan sekadar belas kasihan.

Badan Peguam Malaysia turut menzahirkan kebimbangan terhadap kualiti makanan yang disediakan di sekolah-sekolah, terutamanya makanan yang tinggi kandungan gula dan rendah nilai pemakanan. Corak pemakanan yang tidak sihat dalam kalangan kanak-kanak boleh memberikan kesan jangka panjang terhadap kesihatan fizikal, pembelajaran, dan pembangunan generasi masa depan. Oleh itu, adalah tanggungjawab Kerajaan untuk menyemak semula program makanan sekolah dan memastikan penguatkuasaan yang efektif terhadap semua garis panduan pemakanan dan peraturan yang telah digubal.

Pada masa ini, tiada undang-undang domestik yang secara jelas memperuntukkan hak kepada makanan. Meskipun Malaysia telah menunjukkan komitmen di peringkat antarabangsa, hak ini belum diperincikan dalam Perlembagaan Persekutuan. Malaysia juga masih belum meratifikasi Waad Antarabangsa tentang Hak Ekonomi, Sosial dan Budaya (International Covenant on Economic, Social and Cultural Rights, "ICESCR") yang mengiktiraf hak kepada makanan yang mencukupi sebagai salah satu hak ekonomi dan sosial yang asas. Justeru, Badan Peguam Malaysia menggesa Kerajaan untuk menjalankan kajian menyeluruh tentang kesesuaian dan keperluan untuk menandatangani serta meratifikasi ICESCR. Kajian ini harus melibatkan proses perundingan bersama pelbagai pihak berkepentingan, termasuk masyarakat sivil, pakar perundangan, pakar pemakanan, dan pembuat dasar.

Sebagai langkah interim, Artikel 5 dalam Perlembagaan Persekutuan yang memperuntukkan hak untuk hidup boleh dipertimbangkan untuk ditafsirkan secara lebih progresif bagi merangkumi hak kepada makanan yang mencukupi sebagai sebahagian daripada kehidupan yang bermaruah. Tafsiran ini boleh membantu menutup jurang perundangan yang wujud ketika ini, sementara menunggu usaha pembaharuan undang-undang secara menyeluruh dilaksanakan.

Badan Peguam Malaysia menegaskan bahawa hak kepada makanan bukanlah satu idealisme yang abstrak. Sebaliknya, ia adalah soal asas keadilan sosial dan maruah insan. Kami komited untuk menyokong segala usaha legislatif, pentadbiran, dan dasar yang membawa Malaysia lebih hampir kepada pengiktirafan dan pelaksanaan hak ini secara adil dan menyeluruh bagi semua lapisan masyarakat Malaysia.

1 "Malaysia, as Asean Chair, to spearhead regional sustainable agriculture, food security", *The Sun*, 24 April 2025.

The Malaysian Bar Calls for the Immediate Tabling of the Senior Citizens Bill to Protect Our Ageing Population

30 May 2025

Malaysia is at a critical juncture in its demographic shift towards an ageing population. The Department of Statistics Malaysia ("DOSM") projects that the percentage of citizens aged 65 and above will rise from 8.1% in 2024 to 14.5% by 2040,[1] placing unprecedented demands on the nation's care system. This demographic transformation presents Malaysia with an urgent and important opportunity to establish a holistic and comprehensive legal and policy framework(s) that will guarantee the protection, welfare, and dignity of our senior citizens for generations to come.

The current retirement financial preparedness of Malaysians presents significant challenges that require the immediate attention of our legislative and policymakers. According to the Employees Provident Fund or Kumpulan Wang Simpanan Pekerja ("EPF"), 58% of its 54-year-old members have less than RM100,000 in their savings — below the RM240,000 needed to sustain a modest monthly income of RM1,000 for 20 years, post retirement. This financial gap, combined with rising caregiving costs, underscores the importance of establishing robust legal protection and support systems to ensure elderly Malaysians can age with dignity, security, and quality of life.[2] We thus welcome and applaud the Government's efforts to look into increasing the retirement age from 60 to 65, allowing senior individuals who are keen and capable to continue their valuable contributions to the workforce.[3]

The Malaysian Bar recognises the significant effort and work undertaken by the Ministry of Women, Family and Community Development (Kementerian Pembangunan Wanita, Keluarga dan Masyarakat, "KPWKM") in developing the Senior Citizens Bill, as announced in mid-2024. We understand that comprehensive legislation requires careful consideration and thorough preparation. Therefore, we commend KPWKM's reported progress[4] on the Senior Citizens Bill, aimed at enhancing protection for Malaysia's ageing population, and we hope that our following analysis will be considered in the final draft of the Bill.

The Malaysian Bar requests the Government to incorporate a holistic, rights-based framework within the final draft of the Senior Citizens Bill, ensuring proactive and legally enforceable protection for our senior citizens through the following core provisions:

(1) **Codified Rights and Protections:** Senior citizens must be legally guaranteed the right to healthcare, shelter, safety, financial protection, and dignity — rights that are enforceable by law. This framework would align with the United Nations Principles for Older Persons, which also reflects Malaysia's commitment to human rights.[5]
(2) **Accountability for Neglect and Abuse:** The Bill must include robust legal mechanisms to address emotional, physical, and financial elder abuse. Proper support for victims and rehabilitative options for families must be incorporated into the framework.
(3) **Oversight through a Statutory Council:** Establish a National Commission for Senior Citizens, or a similar oversight regulator, to oversee the implementation of the Bill and ensure compliance with other relevant laws or policies, and represent the voices of senior citizens in policymaking.
(4) **Comprehensive Community and Care Support:** Prioritise home-based and community care by ensuring access to trained caregivers and providing financial support for families caring for elderly dependents.
(5) **Access to Legal Aid and Financial Support:** Provide senior citizens with dedicated legal aid for wills, disputes, and protection from exploitation, alongside fair pensions and financial assistance to secure their welfare.
(6) **Mandatory Regulation of Elderly Care Homes:** All aged care facilities must be licensed, audited, and held accountable for the treatment and welfare of their residents. Malaysia currently has 393 registered elderly care centres and 26 nursing homes, with estimates indicating over 700 unregistered facilities. Regulation and licensing are crucial to ensuring the safety and dignity of seniors residing in these institutions.[6]
(7) **Mental Health and Social Inclusion:** Address the challenges of isolation, depression, and dementia through accessible mental health services and community engagement programmes.

Malaysia has an excellent opportunity to leverage gerontechnology — technology specifically designed

for senior citizens — to enhance independent living, improve mental health, and support families with caregiving responsibilities. We can learn from the successful implementation of elderly care in Singapore and Japan, and harness the opportunity to develop innovative and creative solutions, such as wearable health devices, telehealth services, and smart home systems, while ensuring these remain inclusive and protect data privacy.

The Malaysian Bar reiterates that the rights and welfare of senior citizens must be safeguarded through legislation informed by international best practices.[7] Jurisdictions such as Canada[8] and South Korea[9] have demonstrated that a statutory framework for senior citizens' welfare can be transformative, not just in providing protection for the elderly, but also in fostering dignity and inclusion. For instance, the Canadian Government provides comprehensive support for its senior population,[10] offering income security programmes, initiatives designed to keep seniors active and engaged within their communities, and valuable assistance to help them remain in their own homes. South Korea established an all-inclusive Long-Term Care Insurance system designed to ensure the well-being of older people experiencing physical limitations or geriatric conditions, while simultaneously alleviating the caregiving burden borne by their families.[11]

The Malaysian Bar calls on the Government to continue building on the promising progress already made, and looks forward to the successful completion and tabling of this transformative legislation.

A truly effective Senior Citizens Bill must tackle the root causes of neglect, abuse, and systemic marginalisation faced by our ageing population. The Malaysian Bar stands ready to contribute its legal expertise and insights to ensure that this legislation is effectively and efficiently enacted, for the benefit of all Malaysians.

1 Population Projection (Revised), Malaysia, 2010–2040, Department of Statistics Malaysia, Released on 4 November 2016.

2 "Navigating the future of care for older persons in Malaysia by 2040: From community support to technological integration", United Nations Development Programme ("UNDP") website, 15 June 2024.

3 "HR Ministry: Review underway on raising Malaysia's retirement age to 65 amid labour reforms", *Malay Mail*, 23 May 2025.

4 "Govt upbeat about making Senior Citizens Bill a reality", *The Sun*, 26 May 2025.

5 "United Nations Principles for Older Persons", Office of the High Commissioner for Human Rights ("OHCHR"), 2025.

6 "The Long-Term Care COVID-19 Situation in Malaysia", International Long Term Care Policy Network, 30 May 2020.

7 "Press Release | One Story is Far Too Many — Law Reforms for Senior Citizen Rights", Malaysian Bar website, 17 April 2025.

8 Protecting Canada's Seniors Act S.C. 2012, c. 29.

9 Welfare of Senior Citizens Act, enacted in 1981.

10 Programs and services for seniors, Government of Canada website, 2025.

11 "Long-Term Care System in Korea", National Library of Medicine, National Center for Biotechnology Information, 26 August 2020.

The Malaysian Bar Reaffirms Its Commitment to Regulatory Reform and Business Facilitation through PEMUDAH

4 June 2025

The Malaysian Bar acknowledges the continued efforts of PEMUDAH (Pasukan Petugas Khas Pemudahcara Perniagaan) in strengthening Malaysia's business environment and advancing regulatory reforms. Initiated in 2007 under the leadership of former Prime Minister, Tun Abdullah Ahmad Badawi, PEMUDAH was conceived to address long-standing inefficiencies in Government procedures that directly impact economic activity, and to build a business ecosystem rooted in efficiency, accountability, and transparency. Over the years, it has evolved into a significant platform for structured public-private engagement on matters of economic governance.

The Malaysian Bar has been actively involved in this reform agenda since the early years of PEMUDAH. Our participation in consultations, technical discussions, and reform proposals has focused primarily on legal and regulatory processes affecting the business community. These include matters relating to contract enforcement, property registration, licensing frameworks, insolvency mechanisms, and administrative efficiency within key legal institutions.

We recognise that the progress made under PEMUDAH has contributed to Malaysia's earlier advancement in global "ease of doing business" rankings. However, there remains considerable

ground to cover. Inconsistencies in the application of rules across different States and local authorities continue to cause confusion and unpredictability. While regulatory improvements have been implemented at the Federal level, their effectiveness often depends on uniform execution throughout the country. The Malaysian Bar believes that regulatory reform must not remain policy rhetoric, but ought to be institutionalised through binding commitments, transparent monitoring mechanisms, and regular review with measurable outcomes. The reforms must also be grounded in law, where appropriate, to ensure clarity, enforceability, and longevity.

In addition, PEMUDAH should take a more aggressive approach in reducing red tape for the private sector in its dealings with Government bodies and their agencies to improve the ease of doing business.

As a statutory body tasked with upholding the cause of justice without fear or favour, the Malaysian Bar considers its role *vis-à-vis* PEMUDAH and similar initiatives to be an extension of its responsibility to the public. We will continue to offer legal insights and practical feedback to policymakers, ensuring that legislative and regulatory frameworks remain responsive to the needs of the business community, while safeguarding fundamental legal principles. We will also continue to highlight areas where laws or their implementation infringe on fairness, efficiency, or access to justice.

A robust economy cannot exist without a sound legal system. Investor confidence, both domestic and international, depends not just on ease of doing business, but also on fairness, predictability, and trust in the rule of law. The Malaysian Bar is committed to working alongside PEMUDAH, Government agencies, and the private sector, to ensure that Malaysia's regulatory reforms serve these broader purposes. We urge all stakeholders to remain focused, coordinated, and committed to reforms that deliver meaningful and measurable outcomes for the country.

Judicial Extensions, Promotions and Appointments: The Nation Awaits

5 June 2025

The Malaysian Bar is deeply concerned with the uncertainty surrounding the extensions of tenure for The Right Honourable Chief Justice Tun Tengku Maimun binti Tuan Mat, the Right Honourable President of the Court of Appeal Tan Sri Datuk Amar Abang Iskandar bin Abang Hashim, and the most senior Federal Court Judge (other than the judicial Office Bearers) The Honourable Justice Tan Sri Datuk Nallini Pathmanathan[1]. This comes in the light of the reported[2] six-month extensions granted to five other apex court Judges[3].

While the maximum extension permissible is six months and is a matter of discretion, neither is it a reward. It is a responsibility to continue working for the benefit of the nation and the cause of justice. It is unusual for the Chief Justice, President of the Court of Appeal or senior Federal Court Judge not to be granted 6-month extensions. These extensions are far from ceremonial and afford these senior judges, amongst others, time to conclude a lifetime of service to the Bench and nation and to get their judicial affairs in order. Further, such extensions can also be used productively to conclude cases pending before them and the time to complete the writing of their judgments, amongst others.

These three judges exemplify the critical qualities essential for appellate and apex court positions: unwavering judicial independence and integrity, upholding the rule of law without fear or favour, administrative competence, public credibility, and a deep commitment to constitutional principles and human rights. The Malaysian Bar maintains[4] that all future judicial and Judicial Appointments Commission ("JAC") appointees should embody these attributes, whilst also taking into consideration seniority and diversity ie gender and ethnic representation.

The cumulative effects of these extensions are also crucial in the light of the vacancies in the Judiciary, particularly in the superior and apex courts. These extensions would enable the Federal Court to continue to function at the highest levels and is essential in upholding the rule of law and maintaining public confidence in the Judiciary. A judiciary that operates at less than full strength, particularly at the appellate level, risks the erosion of judicial efficiency, the accumulation of backlogs, and delays in the dispensation of justice and, if left unchecked, a denial of justice itself.

According to the JAC[5], there are at *present* 29 vacancies among superior court Judges: two in the Federal Court, three in the Court of Appeal, and 24 in the High Courts (comprising 13 in Malaya and 11 in Sabah and Sarawak). There does not appear to be ready data for *projected* vacancies (taking into account impending retirements at all levels) but it is clear that the numbers would be even greater than this.

Court Level	Total Positions	Current Judges	Vacancies
Federal Court	11	9	*2*
Court of Appeal	32	29	*3*
High Court (Malaya)	75	62	*13*
High Court (Sabah & Sarawak)	19	8	*11*
Total	**141**	**112**	***29***

Coupled with the fact that six Federal Court Judges are *projected* to retire by the end of this year (of whom, even if three are extended, all six would still retire by January and February 2026), the Judiciary faces an impending leadership vacuum as all four Office Bearers of the Judiciary fall within this category. The delays in appointments, promotions and extensions are no longer tenable and must be addressed posthaste.

The Judiciary is one of the three branches of the Government, the others being the Legislature and the Executive. Modern constitutional democracies the world over recognise these three branches of Government as being necessary in upholding the Separation of Powers and the Rule of Law. The independence of the judiciary is a critical tenet in upholding this constitutional equilibrium. The vibrancy and robustness of modern democracies are measured by adherence to such constitutional principles.

The granting of extensions to some judges but not others could lead to unwanted and unfounded adverse perceptions, particularly as they relate to the most senior Judges of the Federal Court. Any perceived erosions of our constitutional infrastructure may not only adversely affect the rule of law but harm a country's commercial and economic attractiveness for investment and business.

The Malaysian Bar calls upon the JAC and all relevant decision-makers to ensure that all appointments, extensions, promotions and the process of identifying and recommending the incoming Office Bearers of the Judiciary and the appointments and promotions of appellate and apex court Judges continue to reflect the highest standards of transparency, integrity, objectivity, and fidelity to the Constitution. These high judicial offices demand character, integrity, credibility, and an unwavering commitment to justice — Malaysia deserves no less.

1 "Tenures of Chief Judge of Malaya, two Federal Court judges extended", *The Edge*, 13 March 2025.

2 "Extend Tengku Maimun, Abang Iskandar and Nallini's tenures, human rights society urges govt", *The Edge*, 22 May 2025.

3 The Right Honourable Chief Judge of Sabah and Sarawak Tan Sri Dato' Abdul Rahman bin Sebli, The Right Honourable Chief Judge of Malaya Tan Sri Hasnah binti Dato' Mohammed Hashim, and Federal Court Judges Tan Sri Datuk Harmindar Singh Dhaliwal, Dato' Zabariah binti Mohd Yusof, and Datuk Hanipah binti Farikullah.

4 "Press Release | The appointment of Tan Sri Hj Mohd Dzaiddin Hj Abdullah as the Chief Justice of the Federal Court" by Haji Sulaiman Abdullah, Malaysian Bar website, 20 December 2000; "Press Release | Seniority Should Be the Overriding Factor in Elevation of Judges" by Abdul Fareed Abdul Gafoor, Malaysian Bar website, 29 November 2018;"Press Release | Seniority important factor in judicial appointments" by Ambiga Sreenevasan, Malaysian Bar website, 5 April 2007.

5 Statistics on Post and Vacancies of Supreme Court Judges, Judicial Appointments Commission Malaysia website, retrieved 4 June 2025.

Judicial Remuneration — Upholding Principle and Preserving the Integrity of the Judiciary

10 June 2025

The Malaysian Bar reiterates the importance of addressing judicial remuneration as a matter of principle, institutional integrity, and public confidence. The question of judicial pay is not solely about compensation; it is fundamentally about preserving the independence and dignity of the judiciary.

In March 2023, the Malaysian Bar, at its 77th Annual General Meeting,[1] adopted a resolution calling for the establishment of an independent Judges' Remuneration Commission. This proposal is grounded in the belief that judicial salaries and benefits should be reviewed regularly through a

transparent, objective, and independent process. A structured mechanism of this nature is critical to ensuring that judges are not exposed to undue influence — perceived or otherwise.

To date, the implementation of the proposed reforms from the Malaysian Bar's resolution remains pending. While there may be valid administrative considerations, the continued delay gives rise to assumptions that such matters could be approached selectively or with strategic timing. Even if such assumptions are unfounded, the mere perception that decisions on judicial remuneration are contingent on external factors risks eroding public trust in the impartiality of institutions.

The Malaysian Bar thus urges the Government to proceed with the proposed reforms in relation to judicial remuneration without delay and to ensure that any future decisions relating to judicial remuneration are driven solely by the demands of justice, good governance, and institutional stability. Carrying through reforms would not only uphold the rule of law, but also avert public misperception and reaffirm the impartiality and maturity of our democratic system.

1 "Malaysian Bar Resolution Regarding Remuneration of Judges and Establishment of Judges' Remuneration Commission", Resolutions Adopted at the 77th Annual General Meeting of the Malaysian Bar Held at Wisma MCA, Kuala Lumpur (Saturday, 18 Mar 2023), Malaysian Bar website.

International Domestic Workers' Day: Respected, Protected, and Empowered

17 June 2025

The Malaysian Bar joined the international community yesterday in commemorating International Domestic Workers' Day 2025, observed annually on 16 June to honour the invaluable contributions of domestic workers worldwide, and to spotlight the persistent challenges they continue to face.

This date marks the adoption of the International Labour Organization ("ILO") Convention No 189 on Decent Work for Domestic Workers in 2011, a landmark achievement in the global recognition of domestic work as legitimate labour, deserving of fair, safe, and dignified working conditions.

In Malaysia, domestic workers — the majority of whom are women — continue to face systemic vulnerabilities, including exclusion from key labour protections under national legislation. Despite the essential nature of their work in supporting households, communities, and the broader economy, many remain unprotected, underpaid, and vulnerable to exploitation and abuse.

In conjunction with the observance of International Domestic Workers' Day, the Malaysian Bar calls for the full legal recognition and protection of domestic workers under Malaysian labour laws, ensuring that they enjoy equal rights and protections as all other categories of workers. The Malaysian Bar also calls for the ratification and implementation of ILO Convention No 189 and Recommendation No 201 by the Malaysian Government as a vital step toward safeguarding the rights and dignity of domestic workers.

Further, the Malaysian Bar urges stronger enforcement of existing laws and the establishment of effective mechanisms to prevent exploitation and abuse of domestic workers. It is equally important to ensure improved access to justice for domestic workers, allowing them to report violations and seek redress without fear or obstacles. Public awareness campaigns must also be actively conducted to challenge discriminatory attitudes and affirm the dignity and value of domestic work.

The Malaysian Bar also implores the Government to enact a dedicated law for domestic workers, recognising the unique nature of their work compared to the formal employment sector. The Government should standardise employment contracts and issue specific regulations for domestic work. These measures fall within the powers of the Minister of Human Resources and do not require parliamentary approval; therefore, they can be implemented without delay.

Additionally, the Malaysian Bar calls for the introduction of mechanisms that allow foreign domestic workers to change employers or employment sectors without undue restrictions. The Government should also regulate part-time employment arrangements involving domestic workers to prevent misuse and exploitation. At present, many domestic workers are

sent to multiple households as part-time cleaners, often without sufficient protection. Such arrangements leave workers exposed to risks and, as such, ought to be urgently addressed through clear and enforceable regulations.

The Malaysian Bar remains steadfast in its commitment to upholding the rule of law and human rights, and will continue to advocate for the fair and just treatment of all workers, particularly those whose labour often remains hidden behind closed doors.

On International Domestic Workers' Day, let us recommit to building a future in which all domestic workers are respected, protected, and empowered.

World Refugee Day 2025: Solidarity with Refugees

20 June 2025

On World Refugee Day 2025, observed annually on 20 June, the Malaysian Bar stands in solidarity with refugees in Malaysia and around the world. This year's theme — "Solidarity with Refugees" — is a powerful reminder that our shared humanity calls us to support, protect, and stand alongside those forced to flee their homes.

The global refugee crisis continues to grow, with over 100 million people forcibly displaced due to conflict, persecution, violence, and human rights violations. Malaysia hosts a significant number of refugees and asylum-seekers, many of whom live in precarious conditions without access to formal legal status, education, healthcare, or the right to work.

Despite these challenges, refugee communities in Malaysia have shown remarkable resilience. They contribute to society in meaningful ways, through mutual support networks, community education initiatives, skills sharing, and humanitarian outreach. These efforts reflect the spirit of solidarity that this year's theme upholds — a unity that transcends borders and backgrounds.

However, systemic barriers remain. Refugees in Malaysia continue to lack legal recognition under domestic law, which severely limits their access to justice and protection. This legal invisibility leaves them vulnerable to exploitation, arbitrary arrest, and detention.

The Malaysian Bar therefore, calls for the following:

(1) Enactment of a clear legal and policy framework that recognises the rights of refugees and asylum-seekers in accordance with international standards;
(2) Accession to the 1951 Refugee Convention and its 1967 Protocol;
(3) Access to legal protection, healthcare, education, and lawful employment for all refugees and asylum-seekers; and
(4) Promotion of community engagement and partnerships that support integration and uphold the dignity of displaced persons.

As officers of the court and advocates for justice, the Malaysian Bar remains committed to upholding the rights of marginalised and vulnerable communities. We believe that true solidarity with refugees means not only offering compassion, but also advocating for meaningful, rights-based solutions.

Let us reaffirm our collective humanity and work together to ensure that no one is left behind, regardless of their status or origin.

Launch of Malaysian Bar Awareness Initiatives | Client Account Campaign and MyBar Risk Management Podcast

21 June 2025

The Malaysian Bar today launched its risk awareness initiatives — Client Account Campaign and MyBar Risk Management Podcast — at its launch ceremony at Wisma Badan Peguam Malaysia.

In recent years, we have seen an increase of cases involving lawyers and stakeholder money leading to criminal breach of trust ("CBT"). While the main reason that lawyers commit such acts remains

unclear, the information from the Malaysian Bar's mandatory Professional Indemnity Insurance ("PII") Scheme provides some insights. As at 27 Nov 2024, the Malaysian Bar recorded a total of 1,063 notifications from the past five years (2020–2024). From this figure, 15% of the notifications involve allegations of breach of stakeholders' duties and/or misappropriation, both involving client accounts.

The number of PII Scheme notifications involving client accounts is not necessarily a reflection of bad intentions, but more often a reminder of how easily red flags can be overlooked amidst the pressures of daily legal practice. The legal profession is a noble one, grounded in integrity and service, and lawyers embark on their careers with a genuine commitment to doing the right thing. Unfortunately, though the heart be pure and the aim be true, the fact remains that financial irregularities may go unnoticed if internal controls are not properly maintained.

In some cases, the issues may not even stem from the lawyer's own actions, but rather that of a colleague. For example, problems can arise when entering into a partnership or taking over a sole proprietorship without realising that the client accounts were already in disarray, or when a colleague's dishonesty becomes apparent only later. Situations like these are unfortunate, and we empathise with lawyers who find themselves caught off guard.

This is why the Malaysian Bar continues to promote a proactive approach to risk awareness. Regularly reviewing account transactions, ensuring reconciliations are up to date, and insisting on full financial transparency are essential steps in safeguarding a lawyer's practice. Supervision should not be entirely delegated, even when trusted staff or accountants are involved. Establishing clear audit trails and being alert to inconsistencies are crucial, especially when taking over or joining a firm. These measures help protect not only a lawyer's professional standing, but also the public's trust in the legal profession.

In response to the situation of CBTs involving client accounts, the Malaysian Bar has launched the above-mentioned awareness initiatives as an ongoing effort for lawyers to be consciously aware of the gravity of risks that could affect their livelihood. In the long run, the Malaysian Bar is confident that these awareness initiatives will be able to instil the commendable practice of proper management of client accounts and improve risk management practices in law firms.

Targeting lawyers from different demographics and practice backgrounds, the Malaysian Bar Awareness Initiatives are a thoughtful effort with an array of activities to raise awareness and subsequently, elevate the Malaysian Bar to greater heights.

The Client Account Campaign aims to raise awareness about the correct handling of clients' monies, the importance of adhering to the Solicitors' Account Rules 1990 and the Rules and Rulings of the Bar Council, and the consequences of negligence or oversight. As part of the campaign, the Malaysian Bar will roll out a series of targeted activities, including reinforcing a better understanding of managing client accounts through speaking events, informative videos, firm-wide pledges, updated guidance materials, and visual reminders such as posters and alerts. A whistleblower policy and a compiled list of certified auditors are also in the works to support accountability efforts. By equipping lawyers, pupils in chambers, and even law students with the knowledge and tools to responsibly manage client accounts, this campaign reinforces the Malaysian Bar's commitment to ethical legal practice and enhances the overall standard of risk management within the profession.

Meanwhile, to address key risk issues within the legal practice, the Malaysian Bar has also taken the initiative to launch a dedicated risk management podcast — MyBar Risk Management Podcast — a digital series designed to engage legal practitioners through accessible, insightful content. The podcast will discuss matters ranging from firm management to legal liability, and is targeted at lawyers, pupils in chambers, law students, as well as the general public with an interest in legal practice and professional standards.

Episodes will be published monthly and last 20 to 40 minutes per episode. These will be available on platforms such as YouTube, Spotify, and Apple Podcasts, and shared via the Malaysian Bar website and Praktis, the dedicated risk management website. This initiative represents a progressive step toward cultivating a more informed, proactive, and risk-conscious legal community.

Malaysian Bar Announces First-Ever MyBar Carnival 2025: Where Law Meets Community

23 June 2025

The Malaysian Bar is pleased to announce its first-ever MyBar Carnival 2025, scheduled to be held on 21 September 2025 at the KLIA Ekspres Arrival Hall in KL Sentral. This unique event invites the public to engage directly with the legal profession in an open, accessible, and community-oriented setting.

During a media announcement held on 20 June 2025 organised by the MyBar Carnival Organising Committee at Wisma Badan Peguam Malaysia, the Malaysian Bar introduced the theme for this inaugural Carnival — "Where Law Meets Community." The event aims to bridge the gap between the legal profession and the community it serves, ie the public, by showcasing the human side of legal practice and demonstrating the relevance of the law in daily life.

At the media announcement, the Secretary of the Malaysian Bar and Co-Chairperson of the MyBar Carnival Organising Committee, Murshidah Mustafa, noted that "the legal profession does not exist in isolation. *At its core, it serves people", and "this Carnival is our way of breaking down barriers and creating a space where the public can connect with the law and its practitioners."*

Visitors to MyBar Carnival 2025 can expect the following:

- Interactive exhibitions featuring law firms, tech companies, government agencies, and Bar Council Committees;
- State Bars showcasing community-based legal initiatives;
- Engagement opportunities for pupils in chambers and young lawyers with mentors and legal industry leaders; and
- Exploration of legal innovation, including how technology is reshaping access to justice.

Treasurer of the Malaysian Bar and Co-Chairperson of the MyBar Carnival Organising Committee, R Jayabalan, added: *"It will also be a valuable occasion for pupils in chambers and young lawyers, who will have the chance to engage directly with law firms, mentors, and other key stakeholders. Equally important, it will serve as a platform for our Bar Council Committees and State Bars to present the impactful work they do. It often happens behind the scenes but makes a real difference in people's lives."*

The Malaysian Bar invites members of the public to attend MyBar Carnival 2025 and learn more about how the legal profession is working for the community.

Rebuilding the Public Trust Deficit With Regard to Personal Data Collection

25 June 2025

The Malaysian Bar applauds and welcomes the Federal Government's recent efforts to enhance transparency and public engagement in matters concerning the protection of personal data. In particular, we welcome the proactive clarifications through the media, over the past week, explaining the objectives, scope, purpose, and safeguards of the Mobile Phone Data ("MPD") Programme.[1]

We also commend the Federal Government's ongoing legislative reforms, such as the passing of the Data Sharing Act 2025 ("DSA"),[2] Online Safety Act 2025,[3] Cyber Security Act 2024,[4] amendments to the Penal Code[5] and Criminal Procedure Code[6] to further combat bullying, amendments to the Personal Data Protection Act 2010 ("PDPA"),[7] and amendments to the Communications and Multimedia Act 1998 ("CMA").[8] These developments collectively reflect the Federal Government's resolve to protect, preserve, and uphold personal privacy, amongst others.

However, the Malaysian Bar notes with concern the growing public unease regarding the recent collection and use of mobile phone metadata by the Malaysian Communications and Multimedia Commission ("MCMC"), and the Department of Statistics Malaysia, under the MPD Programme. It was reported that MCMC recently issued a directive to mobile network operators ("MNOs"), instructing them to disclose mobile phone data to the Federal

Government for official statistical purposes, including mobile call records from the first quarter of 2025.[9] The directive, reportedly issued in April 2025, may have stated that non-compliance could constitute an offence under the CMA, carrying penalties of up to RM20,000 in fines or six months' imprisonment.[10]

MCMC stated that the MPD Programme was approved by the Federal Government's Cabinet of ministers in April 2023 as a national initiative under Projek Data Raya Nasional, aimed at generating real-time data insights for planning purposes in areas such as infrastructure, health, and tourism planning.[11] Eight categories of mobile metadata are reportedly being collected from MNOs, including anonymised subscriber identifiers, timestamps, cell tower coordinates, data type (call or internet), and network type.[12]

MCMC stated that the data collected are anonymised and aggregated, and therefore falls outside the scope of the PDPA as these allegedly cannot be used to identify individuals.[13] This view has been echoed by several MNOs,[14] who affirm that policies and processes are in place to ensure the data shared is strictly anonymised, aggregated, and handled in compliance with applicable data protection laws and regulations. They further assert that no personally identifiable information is shared or processed at any point.

The CMA allows MCMC to collect anonymised data from licensees. Section 73 of the CMA enables MCMC to collect data through the issuance of a directive following section 51 of the CMA. MCMC may also share such data with the Department of Statistics Malaysia following section 80(3) of the CMA, or sections 12 and 13 of the DSA. Section 16 of the DSA provides for the protection of privacy for all data shared between public sector agencies such as MCMC and the Department of Statistics Malaysia. Section 18 of the DSA provides for penalties in the event that third parties divulge any of such data without authorisation.

Nevertheless, notwithstanding such legal safeguards, in the absence of an opt-out mechanism, and as a result of Cabinet approval,[15] concerns have been raised about consent, oversight, and accountability, including the purpose and limitations of why such data is collected.[16] There are also some concerns that whilst anonymisation is an important and recognised safeguard, it is not infallible.

This is notwithstanding MCMC confirming that MNOs are to anonymise and aggregate data prior to transmission, or to transmit anonymised data that is not aggregated for MCMC to aggregate.[17]

Some members of the public have raised serious concerns about the scope of MCMC's access to such anonymised datasets, particularly those involving rich metadata. These may be re-identified in certain contexts, to individuals, especially if MCMC has access to auxiliary information that could enable such re-identification.[18] The amount of media reports regarding such concerns and the fact that MCMC had to re-clarify shows that the public do have serious concerns.

Such concerns are exacerbated by the limited visibility into the processes surrounding data anonymisation and aggregation, as well as a perceived lack of enforcement in past data breach incidents.[19] Public confidence in the Federal Government's ability to safeguard personal data has been severely undermined by recent events. For instance, it was alleged in 2022 that the personal data of 22.5 million Malaysians (including full names, MyKad numbers, and addresses) was extracted from the National Registration Department via the MyIdentity API (application programming interface) and offered for sale online;[20] in 2024 another breach reportedly involved 17 million MyKad records being circulated on the dark web; and recent reported cyberattacks targeting PERKESO[21] and Prasarana Malaysia Berhad[22] allegedly exposed sensitive internal data.

This pattern of repeated leaks, perceived opaque investigations, and also the possible absence of meaningful accountability has entrenched a trust deficit amongst the Malaysian public regarding the management of personal data by the government machinery.[23]

The Malaysian Bar requests the Federal Government to address such trust deficit with the following recommendations:

(1) MCMC and the participating MNOs should publicly disclose the specific standards, methodologies, and safeguards applied to ensure effective anonymisation and aggregation of mobile phone data. This may include the relevant technical documentation, data governance protocols and risk assessments, which are published on MCMC's portal or other accessible public platforms. Independent audits and/or oversight

by trusted third-party bodies, such as the Public Accounts Committee in Parliament, would further reinforce public confidence.

(2) Section 3(1) of the PDPA currently excludes the Federal Government and State Governments. This section should be amended to expressly include jurisdiction over the Federal Government, State Governments, and all statutory and regulatory bodies, since they collect and process large volumes of personal data.

(3) The Federal Court in Sivarasa Rasiah v Badan Peguam Malaysia recognised that the right to personal liberty under Article 5(1) of the Federal Constitution also includes the right to privacy.[24] In today's data-driven environment, it is imperative that this right be enshrined in the Federal Constitution as a basic fundamental liberty.

(4) The perceived absence of visible or timely enforcement action in response to previous high-profile data breaches undermines public trust. A robust, transparent, and independent enforcement regime must be established, including fast-track complaint and redress mechanisms, proactive investigations, and meaningful sanctions for mishandling or misuse of data.

(5) Meaningful public consultation and engagement should not be an afterthought. All future phases of the MPD Programme and similar national-level data initiatives ought to be preceded by transparent, inclusive and genuine consultations, and dialogue with stakeholders, including civil society organisations, professional bodies, and academia.

While we acknowledge and respect the Federal Government's good faith efforts to modernise digital governance and strengthen national data infrastructure, it is clear that further action is required to rebuild public trust. The Malaysian Bar remains committed to engaging constructively with all stakeholders, including the Federal Government, State Governments, regulators, statutory bodies, industry, and civil society, to help shape a digital future that respects individual rights, safeguards privacy, upholds our constitutional rights, and meets international best practices.

1 "Cabinet approved mobile data collection in 2023; no opt-out for Malaysians — MCMC", *The Edge*, 9 June 2025; "MCMC Clarifies on Collection of Mobile Phone Data for Official Statistical Purposes", Malaysian Communications and Multimedia Commission website, 6 June 2025.

2 Data Sharing Act 2025, Attorney General's Chambers, 20 February 2025.

3 Online Safety Act 2025, Attorney General's Chambers, 22 May 2025.

4 Cyber Security Act 2024, Attorney General's Chambers, 26 June 2024.

5 Penal Code (Amendment) Act 2025, Attorney General's Chambers, 25 February 2025.

6 Criminal Procedure Code (Amendment) Act 2025, Attorney General's Chambers, 25 February 2025.

7 Personal Data Protection (Amendment) Act 2024, Attorney General's Chambers, 9 October 2024.

8 Communications and Multimedia (Amendment) Act 2025, Attorney General's Chambers, 27 January 2025.

9 "MCMC calls up logs of all phone calls, says no personal info accessed", *Free Malaysia Today*, 6 June 2025

10 *Ibid*.

11 "Cabinet approved mobile data collection in 2023; no opt-out for Malaysians — MCMC", *The Edge*, 9 June 2025; "MCMC Clarifies on Collection of Mobile Phone Data for Official Statistical Purposes", Malaysian Communications and Multimedia Commission website, 6 June 2025.

12 "MCMC: Only eight data types required from telcos in Mobile Phone Data collection initiative", *The Star*, 9 June 2025.

13 "MCMC says anonymised mobile phone data not classified as 'personal data'", *New Straits Times*, 9 June 2025.

14 "Telcos assure public over privacy following MCMC's mobile data collection", *Malay Mail*, 8 June 2025.

15 "Cabinet approved mobile data collection in 2023; no opt-out for Malaysians — MCMC", *The Edge*, 9 June 2025.

16 "MCMC Mobile Phone Data: A look into its data sample, lack of public consultation, no opt out option", Soya Cincau, 10 June 2025.

17 "Cabinet approved mobile data collection in 2023; no opt-out for Malaysians — MCMC", *The Edge*, 9 June 2025.

18 "MCMC order to share phone data sparks concern", *The Sun*, 11 June 2025.

19 "Cover Story: Personal data in jeopardy", *The Edge*, 10 February 2025.

20 "Investigation ongoing on MyIDENTITY data breach, no arrests yet", *The Edge*, 25 July 2022.

21 "Perkeso confirms cybersecurity breach since Saturday", *New Straits Times*, 8 December 2023.

22 "Prasarana confirms cybersecurity incident", *New Straits Times*, 26 August 2024.

23 "Why Malaysia's Phone Data Plan Could Go Wrong – Commentary", Malaysian Wireless, 13 June 2025.

24 [2010] 3 MLJ 507, paragraph 15: "It is patently clear from a review of the authorities that "personal liberty" in art. 5(1) includes within its compass other rights such as the right to privacy."

Malaysian Bar Urges Transparency Over Alleged Judicial Interference, Considers Court-Ordered Disclosure of JAC Records

25 June 2025

The Malaysian Bar is deeply concerned with the recent media report1 alleging that a senior judge was questioned by the Judicial Appointments Commission ("JAC") on the issue of possible interference in judicial affairs. This report, if accurate, raises serious questions about the integrity and independence of our Judiciary — an institution that must remain free from any form of influence or manipulation.

The Malaysian Bar is of the view that allegations of judicial interference go beyond the confines of a mere disciplinary matter. They strike at the heart of public confidence in the administration of justice. The issue here is not only about propriety, but also about the structural health and independence of our Judiciary. In the light of this, and in the interest of public accountability and transparency, the Malaysian Bar will be pursuing the necessary orders to obtain the minutes of the said JAC meeting. This is necessary to ascertain the facts, to preserve institutional integrity, and to ensure that any necessary corrective steps can be taken without compromising the law.

Judicial independence is not negotiable. It is a constitutional guarantee and a pillar of our democratic framework. Any conduct — actual or perceived — that undermines this principle must be addressed swiftly and with full transparency. If the report is found to be untrue, that too must be clarified with equal urgency to avoid unwarranted damage to the reputation of our Judiciary.

The Malaysian Bar calls upon all institutions involved to treat this matter with the seriousness it deserves. We reaffirm our commitment to the rule of law and to the protection of judicial independence, without fear or favour.

Mohamad Ezri b Abdul Wahab
President Malaysian Bar
25 June 2025

1 "JAC questioned senior judge on alleged judicial interference, says source", *Free Malaysia Today*, 24 June 2025.

Uncertainty at the Top Undermines Judicial Independence

30 June 2025

The Malaysian Bar expresses its deep concern over the inaction and lack of clarity regarding the impending retirement of the Chief Justice of Malaysia, now just a day away. As of today, there has been no formal announcement of a successor or whether an extension is to be granted. This level of silence and indecision on matters concerning the highest level of the Judiciary is indefensible.

The position of the Chief Justice is not symbolic — it is central to the integrity, independence, and functioning of the entire judicial system. Leaving the post in uncertainty so close to the retirement date reflects a failure in institutional responsibility. This is not merely an administrative lapse. A breakdown in governance risks damaging public confidence in the Judiciary and opens the door to speculation and unhealthy conjecture.

The Malaysian Bar has consistently refrained from advocating for or against the appointment or extension of any individual judge. Our role is not to lobby, endorse, or influence the appointment process. The Malaysian Bar respects and upholds that boundary. But we must also speak when institutional silence threatens judicial independence. What we are witnessing now is not an issue of lobbying or preference; it is an issue of urgency, transparency, and the proper functioning of a constitutional democracy.

Malaysia has clear precedents for handling transitions in judicial leadership. Acting appointments have been made when necessary, and leadership transitions have generally been dealt with adequate foresight. What is unfolding now is unprecedented. With less than 48 hours to go before the sitting Chief Justice retires, there is still no official word from the relevant authorities. This vacuum, at the very apex of the Judiciary, is as absurd as it is dangerous.

In the absence of clarity, the public begins to speculate. Rumours thrive, confidence erodes. None

of this should be allowed to happen — and yet, all of it could have been easily avoided with timely action.

We take note of the Prime Minister's remarks today[1] regarding alleged lobbying for an extension of the Chief Justice's tenure and the importance of safeguarding the Judiciary from politicisation. The Malaysian Bar fully supports the principle that judicial appointments must remain free from lobbying or external pressure. Our call for clarity on the impending transition is made in good faith and in line with our duty to uphold institutional continuity and public confidence in the administration of justice. At this critical juncture, what is required is clear leadership and timely, decisive action.

The Malaysian Bar calls on the authorities responsible to immediately announce the course of action — whether it be an extension or an appointment — in accordance with the Constitution and the Judicial Appointments Commission process. We agree in principle that judicial independence must be safeguarded from political interference and undue lobbying. However, we caution against conflating legitimate institutional concern and public accountability with politicisation.

There is a meaningful distinction between supporting or objecting to a particular person and calling out a systemic failure that may erode confidence in the rule of law.
Judicial independence is not merely an ideal to be praised in speeches; it must be protected through conduct and decision-making that inspires trust, not suspicion.

1 "PM pushes back against lobby to extend CJ's term, calls it politicisation", *Malaysiakini*, 30 June 2025.

A Familiar Silence: Lessons from the Past Ignored

2 July 2025

The Malaysian Bar notes with concern how the leadership transition at the highest level of the Judiciary has been handled. With the retirement of The Right Honourable Tun Tengku Maimun binti Tuan Mat ("The Right Honourable Tun Tengku Maimun") as Chief Justice of Malaysia now concluded, the absence of a clear and timely succession plan reflects a lapse in institutional responsibility.

In an earlier statement,[1] we cautioned against delay and silence in matters affecting judicial leadership and public confidence. Unfortunately, that concern has materialised. We are now faced with a situation that should have been avoided in a functioning constitutional democracy.

The Judiciary is not merely one of the three branches of government: it serves as the guardian of the rule of law and the final safeguard for constitutional rights. Its leadership must be treated with clarity, foresight, and respect. A seamless transition should have been assured well before the retirement of the sitting Chief Justice. The failure to do so sends an unsettling message — that the Judiciary can be left in uncertainty without due regard to its role and stature.

The Malaysian Bar records its deep appreciation for The Right Honourable Tun Tengku Maimun's exemplary service. Her Ladyship presided over the Judiciary with independence, courage, and an unwavering commitment to justice. She upheld the highest standards of integrity and impartiality, earning the respect of the legal profession and the wider public.

We also acknowledge the contributions of The Right Honourable Tan Sri Datuk Amar Abang Iskandar bin Abang Hashim, President of the Court of Appeal, whose longstanding service reflects dedication and consistency in judicial leadership.

As both of them mark personal milestones this month, we extend our warm wishes and gratitude for their service to the nation.

That said, the principle of judicial independence is not symbolic. It is a constitutional guarantee that requires active protection. The lack of transparency surrounding the non-extension of the Chief Justice's tenure and the delay in appointing a successor are more than administrative issues — they risk undermining public trust in the Judiciary.

This is a matter that goes to the heart of national governance.

The Malaysian Bar reminds all branches of government that the events of 1988 remain a permanent reminder

of how fragile judicial independence can be when vigilance falters. The lessons from that episode must not be ignored. Any conduct or inaction that raises doubts about the independence of the Judiciary must be addressed.

As Parliament reconvenes later this month, we call upon Members of Parliament — particularly those from the legal profession — to express their views. Silence in the face of such uncertainty risks normalising it.

The Malaysian Bar urges the Executive to take the necessary steps to restore public confidence. Judicial independence must remain beyond compromise. It is the foundation of our democratic system and must be protected at all times.

1 "Press Release | Uncertainty at the Top Undermines Judicial Independence", Malaysian Bar website, 30 June 2025.

Dispelling Misconceptions in the Walk to Safeguard Judicial Independence on 14 July 2025

9 July 2025

Yesterday, we issued Circular No 247/2025 titled "Walk to Safeguard Judicial Independence (14 July 2025) (Perarakan Membela Kebebasan Kehakiman)" to Members of the Malaysian Bar, announcing that a Walk to Safeguard Judicial Independence ("Walk") will take place on Monday, 14 July 2025, from the Palace of Justice ("POJ") to the Prime Minister's Office ("PMO") in Putrajaya.

This decision, taken pursuant to the Resolution adopted at the 79th Annual General Meeting of the Malaysian Bar on 15 Mar 2025, follows careful deliberation by the Bar Council. The Walk is being held to voice grave institutional concerns regarding the state of the Judiciary, the pressing issue of prolonged vacancies, the need for leadership continuity, and to urge reforms to safeguard the independence of one of our most vital democratic institutions.

The Malaysian Bar firmly rejects recent media reports, including one by *The Edge* titled "Walk for judicial independence scheduled for July 14, sanctioned by Bar Council",[1] which falsely portray the Walk as a protest against the Government's decision not to extend the tenures of the former Chief Justice of Malaysia and the President of the Court of Appeal.

The Walk is not about individuals; it is a stand for institutional integrity. Any attempt to frame it otherwise is misleading and undermines the Bar's position.

The Bar's focus is on the structural and systemic issues affecting the Judiciary. Recent developments — including unexplained delays in appointments and troubling references to possible interference in judicial affairs — have raised deep concerns. The public is entitled to a Judiciary that is not only independent, but seen to be independent. Anything less undermines confidence in the administration of justice.

This Walk is a lawful, peaceful, and symbolic act of civic responsibility. It reflects the legal profession's unwavering commitment to uphold the Federal Constitution, the separation of powers, and the rule of law. It is a collective statement that judicial independence is not negotiable, and that the Judiciary must be insulated from external influence, whether political, Executive, or otherwise.

This is not just a Walk for lawyers; it is a Walk for the Judiciary, the Bar, and for every Malaysian who values justice. When judicial independence is weakened, the whole nation suffers.

Let there be no misunderstanding:

> The Malaysian Bar walks not in protest of individuals, but in defence of the institution.
> Not in pursuit of partisanship, but in pursuit of justice.
> Not for ourselves alone, but for the public whom the courts are meant to serve.

The Judiciary is not merely a branch of Government — it is the final bulwark of justice. And it must be protected fiercely, fearlessly, and without apology.

Eyes on the Bench — to protect what must never be compromised.

1 "Walk for judicial independence scheduled for July 14, sanctioned by Bar Council", *The Edge*, 7 July 2025 *(we hope this will be removed or corrected).*

Malaysian Bar Welcomes Appointments of Chief Justice, President of the Court of Appeal, and Chief Judge of Sabah and Sarawak

18 July 2025

The Malaysian Bar is relieved by the announcement of Justice Dato' Wan Ahmad Farid bin Wan Salleh ("Dato' Wan Ahmad Farid") as the new Chief Justice of Malaysia. We extend our congratulations and wish him every success in leading the Judiciary with distinction, courage, and unwavering commitment to justice. We also congratulate Justice Dato' Abu Bakar Jais on being appointed as the President of the Court of Appeal, and Justice Datuk Azizah Nawawi as the Chief Judge of Sabah and Sarawak.

The Malaysian Bar recalls that, in 2022, then-High Court Judge Dato' Wan Ahmad Farid recused himself from hearing a high-profile matter concerning the admission of Queen's Counsel Jonathan Laidlaw in a case involving former Prime Minister Dato' Sri Najib Razak.[1] In doing so, he made several significant statements on the importance of public confidence in the Judiciary. He remarked that "the public perception of the independence of the judiciary should not be put in doubt. It is not a matter of trial and error", and reminded all that "an independent judiciary is a precious gift to any society. Once it is lost, anarchy reigns."

These statements demonstrate a profound understanding of the Judiciary's sacred role in upholding the rule of law. We hope that under the stewardship of these new judicial office bearers, the Judiciary will continue to uphold the highest standards of independence, integrity, and service to the nation, reaching greater heights.

While these appointments are much welcomed after months of uncertainty, anticipation, and avoidable speculation, many critical vacancies — current and anticipated — remain unfilled across the Federal Court, the Court of Appeal, and the High Court. We remain hopeful that these remaining vacancies will be filled promptly and transparently, in a manner that reinforces public confidence in the Judiciary and strengthens the administration of justice.

1 "Judge recuses self from hearing QC bid to represent Najib", *The Vibes*, 16 June 2022.

Badan Peguam Malaysia Mengalu-alukan Pelantikan Ketua Hakim Negara, Presiden Mahkamah Rayuan, dan Hakim Besar Sabah dan Sarawak

18 Julai 2025

Badan Peguam Malaysia menyambut baik dengan penuh rasa kelegaan dengan pengumuman pelantikan Hakim Dato' Wan Ahmad Farid bin Wan Salleh ("Dato' Wan Ahmad Farid") sebagai Ketua Hakim Negara yang baharu. Kami merakamkan setinggi-tinggi ucapan tahniah dan berharap beliau akan berjaya memimpin Badan Kehakiman dengan penuh kewibawaan, keberanian, dan komitmen yang tidak berbelah bahagi terhadap keadilan. Kami juga mengucapkan tahniah kepada Hakim Dato' Abu Bakar Jais atas pelantikan beliau sebagai Presiden Mahkamah Rayuan, serta Hakim Datuk Azizah Nawawi sebagai Hakim Besar Sabah dan Sarawak.

Pada tahun 2022, ketika Dato' Wan Ahmad Farid menjawat jawatan sebagai Hakim Mahkamah Tinggi, beliau telah menarik diri daripada mendengar satu kes berprofil tinggi berhubung permohonan kemasukan Queen's Counsel Jonathan Laidlaw dalam prosiding membabitkan bekas Perdana Menteri, Dato' Sri Najib Razak.[1] Dalam berbuat demikian, beliau telah membuat beberapa kenyataan penting mengenai kepentingan keyakinan awam terhadap Badan Kehakiman. Beliau menyatakan bahawa "tanggapan awam terhadap kebebasan Badan Kehakiman tidak seharusnya diragui. Ini bukan soal percubaan dan kesilapan", dan mengingatkan semua bahawa "badan kehakiman yang bebas adalah satu anugerah paling berharga kepada mana-mana masyarakat. Apabila ia sudah tidak wujud, maka anarki akan berleluasa."

Kenyataan-kenyataan ini menunjukkan pemahaman yang mendalam mengenai peranan suci Badan Kehakiman dalam menjunjung kedaulatan undang-undang. Kami berharap agar di bawah kepimpinan para pemegang jawatan kehakiman yang baharu ini, Badan Kehakiman akan terus mengekalkan standard tertinggi dalam aspek kebebasan, integriti,

dan khidmat kepada negara, serta mencapai tahap kecemerlangan yang lebih tinggi.

Walaupun pelantikan ini amat dialu-alukan selepas berbulan-bulan berada dalam ketidakpastian, penantian dan spekulasi yang boleh dielakkan, masih terdapat kekosongan jawatan yang penting — baik yang sedia ada mahupun yang dijangka — di Mahkamah Persekutuan, Mahkamah Rayuan dan Mahkamah Tinggi. Kami kekal berharap agar kekosongan jawatan-jawatan ini akan diisi dengan segera dan penuh ketelusan, dengan cara yang memperkukuh keyakinan awam terhadap Badan Kehakiman dan mempertingkat pentadbiran keadilan.

1 "Judge recuses self from hearing QC bid to represent Najib", *The Vibes*, 16 Jun 2022.

Enhancing Inclusivity — Malaysian Bar Welcomes PDRM's Commitment to Recording OKU Status in Police Reports

22 July 2025

The Malaysian Bar welcomes the affirmative response by the Royal Malaysia Police (Polis Diraja Malaysia, "PDRM") to our proposal to include a declaration of Orang Kurang Upaya ("OKU") (persons with disabilities) status in police reports made by complainants.

This initiative, led by the Bar Council Committee on Persons with Disabilities, aims to enable PDRM to collect accurate and disaggregated data on the number of individuals with disabilities lodging police reports. Through the inclusion of the OKU status — based on information derived from a complainant's identification details — PDRM will be better positioned to adopt a more inclusive and needs-sensitive approach during the investigation and follow-up processes.

We are pleased to note that PDRM has confirmed that its existing Integrated Police Reporting System ("iPRS") already supports the recording of such information. PDRM has assured the Malaysian Bar that counter officers at police stations will now actively indicate a complainant's OKU status when reports are lodged.

This marks a progressive step towards a more inclusive policing system, and aligns with the principles of equality and non-discrimination enshrined in the Persons with Disabilities Act 2008 and the Convention on the Rights of Persons with Disabilities ("CRPD"), which Malaysia has ratified. The Malaysian Bar views this development as a significant milestone in promoting equal access to justice for the OKU community. It also reflects a shared commitment between civil society and law enforcement agencies to uphold the dignity and rights of all persons, regardless of ability.

We take this opportunity to thank PDRM for their receptiveness and cooperation, and encourage all members of the OKU community to assert their rights and utilise this improved mechanism.

Malaysian Bar Sets Up Ad Hoc Parliament Liaison Committee to Strengthen Engagements on Law Reform

24 July 2025

The Malaysian Bar is proud to announce the establishment of the Bar Council Ad Hoc Parliament Liaison Committee ("AHPLC") for the 2025/2026 term. This Committee has been specially formed to engage with Parliamentarians and key stakeholders involved in the legislative process, with the primary aim of contributing to meaningful discussions on proposed laws, bills, and law reform initiatives that directly impact the rule of law and the administration of justice in Malaysia.

As part of our ongoing efforts, the Malaysian Bar has already undertaken significant engagements with leaders across the legislative spectrum. On 13 June 2025, AHPLC held a productive meeting with Tan Sri Dato' (Dr) Johari b Abdul, the Speaker (Yang di-Pertua) of the House of Representatives or Dewan Rakyat, to foster closer collaboration and to underscore the Malaysian Bar's readiness to offer independent, non-partisan legal perspectives on legislative matters.

Additional initiatives are currently in progress and show encouraging prospects, particularly with regard to forthcoming meetings with Government representatives and the opposition party whip. These efforts accentuate the Malaysian Bar's unwavering commitment to engaging as a constructive and principled partner in the legislative process, without affiliation to any political interest. The views expressed by the Malaysian Bar are, and shall remain, firmly rooted in the rule of law, constitutional principles, and public interest.

We invite all stakeholders — Government agencies, Members of Parliament, civil society, and the public — to engage with AHPLC on matters concerning legislative proposals or legal reforms. For further information or to liaise with the Committee, please get in touch with the Malaysian Bar Secretariat at: council@malaysianbar.org.my.

Bullying — A Call for Urgent, Decisive Action

14 August 2025

> *'Bullying,' by whatever name or label and however carried out and by whosoever, unfortunately continues to occur in what is supposed to be our safe havens of education.*
>
> ~Judgment of former Federal Court Judge, Mary Lim Thiam Suan, in *Ahmad Ikhwan bin Ahmad Fauzi v Mohd Fahimi bin Endut & Ors and another appeal* [2024] MLJU 684

Despite greater public awareness and repeated calls for reform, incidents of bullying in our schools persist with alarming regularity. The very spaces meant to nurture young minds too often expose them to intimidation, violence, and neglect.

At the 77th Annual General Meeting of the Malaysian Bar held on 18 March 2023, the Bar adopted the Resolution to Recognise Workplace Bullying as a Form of Misconduct.[1] The resolution stressed the following:

> *"It is important to take steps to prevent and address workplace bullying as it can have a wide range of negative effects on the mental wellbeing of its victims such as anxiety, depression, Post-Traumatic Stress Disorder (PTSD) and other mental health issues. This can in turn lead to reduced job satisfaction, decreased productivity, and even long-term disability. There are physical issues that can also arise from workplace bullying and the stress caused by it such as difficulty sleeping, headaches, etc."*

If workplace bullying, involving adults, can inflict such grievous harm, the impact of bullying in schools on children is even more profound and lasting. Children are in the formative stages of psychological, social, and moral development; thus, exposure to sustained bullying can lead to lifelong trauma, disrupted education, social withdrawal, self-harm, and even suicide.

Malaysia, as a State Party to the United Nations Convention on the Rights of the Child ("CRC"), has clear legal obligations under Article 19, which provides that:

> "States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child."

These obligations require more than expressions of sympathy; they demand decisive legislative and institutional action.

The Government has taken a notable step through the Penal Code (Amendment) Act 2025 (Act A1750), which was approved by the Yang di-Pertuan Agong on 25 February 2025 and gazetted on 7 March 2025. The new sections 507B to 507G specifically target bullying in any form — whether physical, verbal, psychological, or online. The provisions criminalise harassment, threats, insults, misuse of identity, and other forms of bullying, with severe penalties if such acts lead to attempted or completed suicide due to provocation. Convicted offenders may face up to 10 years' imprisonment, a fine, or both.[2]

This legislative reform must be matched by firm enforcement and a cultural shift in how schools address reports of bullying. As reported by the media regarding the tragic death of 13-year-old Zara Qairina Mahathir,[3] disturbing questions arise over apparent procedural failures:

(1) No immediate post-mortem despite visible injuries;
(2) Complaints and warning signs from the victim were ignored; and
(3) Allegations of harassment within the school environment were left unaddressed.

Additionally, the recent statement by the Ministry of Higher Education (Kementerian Pendidikan Tinggi) in relation to the death of Universiti Teknologi Malaysia student Syamsul Haris Shamsudin, that it will not protect any individual if investigations found elements of bullying or criminal conduct, is a commitment that must be upheld across all educational levels, from primary schools to universities.[4]

We cannot continue to have knee-jerk reactions only when tragedy strikes. Proper procedures, preventive measures, and accountability mechanisms must be firmly set in place. The Malaysian Bar stands ready to work with the authorities in designing and implementing these measures. With more than 24,000 members across the nation, the Malaysian Bar can contribute meaningfully — including through nationwide school engagement programmes, awareness campaigns, and talks at all educational institutions — to educate students, empower victims, and promote a culture of zero tolerance for bullying.

A great nation protects its children, for they are the truest measure of our values, our justice, and our future.

1 "Resolution to Recognise Workplace Bullying as a Form of Misconduct", Resolutions Adopted at the 77th Annual General Meeting of the Malaysian Bar Held at Wisma MCA, Kuala Lumpur (Saturday, 18 Mar 2023), Malaysian Bar website.

2 "Bullying now a criminal offence under the Penal Code", Aliran, 13 May 2025.

3 "Zara Qairina death probe: No one will be shielded, deputy minister tells Parliament", *The Star*, 11 August 2025.

4 "No one will be shielded if foul play found in Palapes cadet's death, says Zambry", *The Edge*, 11 August 2025.

Malaysian Bar Supports the Proposal of a Federal Child Support Enforcement Framework

15 August 2025

The Malaysian Bar welcomes the call made in Parliament during the debate on the 13th Malaysia Plan on the establishment of a federal framework to strengthen the enforcement of court-ordered child maintenance.[1]

This proposal represents an important opportunity to address one of the most persistent challenges in the family justice system — the non-compliance with maintenance orders. For far too long, custodial parents have borne the burden of pursuing errant payors through lengthy and emotionally draining enforcement procedures. This has left many parents, and the children in their care, facing financial insecurity following separation or divorce.

The Malaysian Bar advocates for systemic reforms that make family law processes more accessible, effective, and fair. A dedicated enforcement framework or agency, developed in line with Malaysia's constitutional structure and jurisdictional boundaries, could help ensure that children's rights to financial support are protected and realised. It would also reduce the strain on the courts, lower legal costs for vulnerable parties, and strengthen the family institution.

We note that in some jurisdictions, as seen with the United Kingdom's Child Maintenance Service and Canada's provincial and territorial Maintenance Enforcement Programs, enforcement mechanisms

include direct wage deductions and other measures aimed at ensuring compliance. While Malaysia must design a system suited to its own laws and social context, the underlying principle — that maintenance for children is not a voluntary act but a legal obligation — should be firmly upheld.

Any initiative must be inclusive and non-discriminatory, serving all eligible children and parents regardless of race, religion, or socio-economic background, and operating within the respective jurisdictions of the civil and Syariah courts.

The Malaysian Bar stands ready to assist in developing this proposal through legal analysis, consultation, and engagement with the relevant ministries, state authorities, and stakeholders. We believe that strengthening the enforcement of maintenance orders is a shared responsibility that will benefit the well-being of children and the long-term stability of families.

1 "Seputeh MP proposes agency to enforce child support on errant fathers", *Malaysiakini*, 5 August 2025.

Strengthening the Independence of Magistrates and Sessions Court Judges

18 August 2025

> *"To the ordinary citizen, the quality of justice is what happens in the subordinate courts. Regrettably, most of the safeguards for judicial independence are unavailable to the hundreds of judges of our Sessions and Magistrates Courts."*

These words by Emeritus Professor Datuk Dr Hj Shad Saleem Faruqi, delivered at the 5th Raja Aziz Addruse Memorial Lecture during the International Malaysia Law Conference ("IMLC") 2018,[1] remain a timely reminder that the justice most Malaysians experience is in the Subordinate Courts. Thus, safeguarding the independence of judicial officers at this level is essential in upholding public confidence in the justice system.

Under Article 138 of the Federal Constitution, judicial and legal services are combined into one structure overseen by the Judicial and Legal Service Commission ("JLSC"). From the standpoint of judicial independence, this framework presents challenges that warrant careful consideration in ensuring that independence is defended at every level of the Judiciary.

(1) First, the head of the JLSC is the Chairman of the Public Services Commission ("PSC"), who is a senior civil servant. This was not always the case before 1960, during which the Chief Justice held that position, and which therefore, provided stronger judicial oversight. It may be timely to revisit whether alternative models, including those adopted in the past, could offer greater safeguards for independence.

(2) Second, the composition of the JLSC comprises the PSC Chairman, the Attorney General (or in certain circumstances, the Solicitor General), and one or more judges appointed by the Yang di-Pertuan Agong. This arrangement may give rise to perceptions of overlap between Judicial and Executive functions. Ensuring that these lines remain clearly drawn would strengthen confidence in the system.

(3) Third, the Attorney General's multiple responsibilities as the Government's legal adviser, public prosecutor, and a member of the JLSC, may give rise to perceptions of conflict. Exploring ways to manage or mitigate such perceptions would reinforce public trust in the impartiality and independence of the Judiciary.

(4) Finally, judicial officers in the Subordinate Courts can be moved between the judicial and legal services, with their career progression determined by a Commission chaired by the PSC head and attended by the Attorney General, who also exercises administrative control over legal officers. This may leave judicial officers feeling uncertain about their independence, which accentuates the importance of providing clearer safeguards for their tenure and career development.

For these reasons, the Malaysian Bar encourages renewed attention to how Magistrates and Sessions Court Judges are appointed and managed. These courts are the people's courts. They hear the vast majority of cases and are, for many Malaysians, the

first and often the only encounter with the justice system. The independence of Magistrates and Sessions Court Judges must be bolstered in ways that leave no room for doubt in the eyes of the public.

The concern about independence among Subordinate Courts Judges is not new. The courts themselves have recognised that judicial independence must extend to every level of the Bench. In *Ahmad bin Abu Bakar v Public Prosecutor* [1998] 7 MLJ 391, Abdul Malik Ishak J (as he then was) observed:

> *"On independence of the judiciary, which must necessarily include magistrates and judges of the sessions courts, the interference by the police constable of magistrate 'A's discharge of judicial duty must be frowned upon … A judge of whatever rank, and this must include a magistrate, is required to render an honest, unbiased opinion based purely on the law and the facts. It is not a simple task. It demands a whole gamut of wisdom, conscience, absolute freedom from bias and prejudice and above all fairness."*

In conclusion, the Malaysian Bar calls upon all stakeholders to work together to fortify the appointment framework for Magistrates and Sessions Court Judges. Justice must not only be done, but must also be seen to be done, and this principle must hold true in every courtroom where Malaysians seek redress.

Judicial independence is the bedrock of the rule of law. It deserves to be protected and defended, not only in the higher courts, but equally in the courts where ordinary Malaysians most often seek justice.

1 IMLC 2018 | Thirtieth Anniversary of the 1988 Judicial Crisis: Lessons about the Importance of Judicial Independence and Impartiality (Emeritus Professor Datuk Dr Hj Shad Saleem Faruqi), 5th Raja Aziz Addruse Memorial Lecture.

Malaysian Bar's Position on the Urban Renewal Bill 2025

27 August 2025

The Malaysian Bar notes that the Government tabled the Urban Renewal Bill 2025 for its first reading in the Dewan Rakyat (House of Representatives) on 21 August 2025. The Bill seeks to create a framework for the redevelopment, regeneration, and revitalisation of urban areas, with significant implications for homeowners, tenants, and the public at large.

We recognise the need for a coherent legal framework to address ageing buildings, abandoned developments, and unsafe structures in Malaysia's cities. Urban renewal is a legitimate and necessary national objective. However, this objective must not come at the expense of fundamental rights, security of tenure, and public confidence in the rule of law.

The Bar is concerned that the consent thresholds proposed in the Bill are set too low. As drafted, the Bill allows renewal projects to proceed with 80 percent consent for buildings aged 30 years or less, 75 percent consent for buildings over 30 years, and 51 percent consent for unsafe or abandoned buildings. Such thresholds risk undermining the rights of minority owners and exposing communities to potential displacement. In other jurisdictions, higher consent levels have been adopted as safeguards. We therefore urge that the thresholds for habitable buildings be raised to at least 85 percent for older buildings and 90 percent for newer ones, with independent verification of consent.

Additionally, with regard to States' participation in securing the consent threshold, the Malaysian Bar is concerned that the revised text now places the responsibility entirely on the appointed qualified developer, without any direct participation of State authorities. While PLANMalaysia indicated during a recent briefing session that this matter will eventually be addressed in the Rules of the Act, there is no assurance that this would happen, as the power to make Regulations is vested solely in the Minister under section 29 of the Bill.

Furthermore, in relation to compulsory acquisition under section 21(4), once the consent threshold is secured, the remaining landowners who disagree will be subjected to compulsory acquisition. This raises serious concerns regarding fairness and due process. The Bill provides no protection to non-participating landowners. Safeguards and the right to receive an offer of benefit under urban renewal should extend to all landowners, whether participating or otherwise.

The Malaysian Bar also notes that the Bill allows for a declaration of urban renewal without prior engagement by the authorities with landowners. This marks a departure from earlier drafts, which had envisaged a more active role for State authorities in ensuring the consent threshold was met.

In the light of these concerns, we emphasise these key points:

- The State must be involved in confirming the consent threshold;
- The appointed qualified developer cannot be permitted to independently secure the consent threshold;
- It is illogical to allow compulsory acquisition to proceed merely on the basis that the developer has secured the consent threshold;
- The right to receive an offer of benefit must be extended to all landowners, both participating and non-participating; and
- The consent threshold percentage is lower than the threshold in some urban renewal-centric countries.

We are further concerned about the Bill's reliance on compulsory acquisition mechanisms under the Land Acquisition Act 1960. Any use of compulsory acquisition in the context of urban renewal should be approached with caution, reserved only for genuine public purposes, and accompanied by enhanced compensation formulas that include relocation costs, disturbance allowances, and a right of return.

Tenants and occupiers, though not title owners, must not be overlooked. Adequate statutory protections must be introduced to guarantee temporary rehousing, relocation support, and first right of return to equivalent units. Without these safeguards, urban renewal risks displacing vulnerable communities and widening social inequalities.

Equally critical is the need for transparency and participation. Public hearings, social and traffic impact assessments, and full disclosure of development terms should be made mandatory before any renewal project is approved. The Bar is particularly concerned about recent moves to narrow opportunities for public hearings in Kuala Lumpur, which run counter to the principles of transparency and accountability.

The Malaysian Bar advocates for the establishment of an independent mediation body with clear powers to address disputes and procedural defects, as well as provisions for legal aid to affected owners and occupiers. Renewal must not become a tool for private profit at public expense. In any event, the absence of a tribunal is problematic. Part IV of the Bill merely provides for mediation, which is insufficient to effectively address disputes.

We therefore urge the Government to defer the second reading of the Bill and to subject it to further consultation with all stakeholders, including residents' groups, consumer associations, and civil societies. Only by ensuring higher safeguards and stronger protections can urban renewal achieve its intended purpose of revitalising our cities while respecting the rights and dignity of all Malaysians.

Legislation Needed to Safeguard Children in Childcare Centres

10 September 2025

The Malaysian Bar takes note of the Early Childhood Care & Education ("ECCE") Council's recent call for the Government to legislate on matters pertaining to employees of childcare centres.[1] The stated purpose of this initiative is to strengthen accountability, prevent neglect, and safeguard the welfare of children entrusted to such facilities. The Malaysian Bar is supportive of any measure that enhances the protection of children.

Malaysia has a clear responsibility to ensure the protection of children, as it has ratified the United Nations Convention on the Rights of the Child. In doing so, Malaysia has committed itself to upholding the principles enshrined in the Convention, particularly Article 3(1), which requires that in all actions concerning children, whether by public or private social welfare institutions, courts, administrative authorities, or legislative bodies, the best interests of the child must be a primary consideration.

This commitment requires the State to ensure that laws, policies, and practices are aligned with the protection and well-being of children, safeguarding

their rights and ensuring that their voices and interests remain at the forefront of decision-making processes. Given the alarming rate of child abuse cases and deaths at childcare centres, timely legislation on this matter is urgently needed.

Any Bill tabled in Parliament must be carefully drafted to ensure clarity, enforceability, and fairness. This includes well-defined standards of training, licensing or registration requirements, and transparent mechanisms for inspection and enforcement. It is equally important that due process protections are incorporated, so that employees are treated fairly and their rights safeguarded, while accountability is upheld.

The Malaysian Bar believes that establishing a framework that professionalises childcare workers, coupled with effective and transparent oversight, is a sound approach. Such a structure would help build public trust, enhance the quality of childcare services, and ultimately protect the best interests of children.

The Government must engage widely with stakeholders, including parents, civil society, childcare professionals, and legal experts, before finalising any draft law. The enactment of a law regulating childcare centre employees should not only address immediate concerns of safety and accountability, but also reflect Malaysia's long-term commitment to nurturing a society where children are given every opportunity to thrive. As the Preamble to the Child Act 2001 rightly affirms:

> *"a child is not only a crucial component of such a society but also the key to its survival, development and prosperity."*

1 "Draft law for childcare centre employees, govt told", *Free Malaysia Today*, 5 Sept 2025.

Understanding the Legal Profession: Who is a Lawyer?

1 October 2025

The widespread accessibility of social media has made the public more vulnerable to individuals falsely presenting themselves as lawyers. These unethical individuals often mislead people into believing they are qualified to offer legal advice. Such actions, tantamount to misconduct, not only jeopardises the rights of unsuspecting clients, but also erodes trust in the legal system. It is therefore essential to educate the public on the qualifications and roles of legal practitioners to ensure that they are aware of who is lawfully entitled to provide legal services. This is part of the Malaysian Bar's ongoing commitment to strengthen public confidence in the legal profession and to protect public interest.

Domestically, the title of a lawyer is only conferred upon a person who has been admitted and enrolled as an "advocate and solicitor of the High Court". This designation is not automatically granted to an individual upon graduating with a law degree. According to section 10 of the Legal Profession Act 1976, a person must first be a "qualified person" before embarking on the journey to becoming a practising lawyer. This journey includes obtaining a recognised law degree, passing the relevant professional examinations such as the Certificate in Legal Practice ("CLP") if required, and completing a mandatory nine-month period of practical training, known as pupillage or chambering.

The legal profession is a fused one, meaning a single qualified individual can perform the functions of both an advocate and a solicitor. This can be a point of confusion for those familiar with legal systems in other jurisdictions where these roles are distinct. The following terms are clarified to provide a better understanding of the profession:

- Advocate and solicitor: A qualified lawyer holds the title "advocate and solicitor" and is authorised to perform both roles of representing clients in court and handling out-of-court matters, such as drafting agreements and providing legal advice.
- Law graduate: A law graduate is an individual who has only completed a law degree and has not yet met the professional requirements to practise law, such as passing the Bar exam and CLP, if required, and completing pupillage.
- In-house legal counsel: In-house legal counsel are often hired by companies with an internal legal department. While many in-house legal counsel are former practising lawyers, they are not required to hold a valid Practising

Certificate to perform their duties. As a result, they can only provide legal advice in a limited capacity within the activities of the company.

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Given these distinctions, it is essential for the public to verify whether an individual is in fact a practising lawyer, which they can do by accessing the Malaysian Bar's official Legal Directory. The Legal Directory is an online registry of Malaysian Bar members and law firms.

The Legal Directory acts as a protective feature against fraudulent individuals presenting themselves as lawyers, and doing a simple check against the Directory would help the public verify whether such individuals are truly lawyers, thus protecting themselves before engaging a lawyer for legal services.

If an individual is not listed in the Legal Directory, he/she is not authorised to provide any legal advice or services to the public. If you encounter someone claiming to offer these services but whose name is absent from the Legal Directory, please disregard his/her advice and seek legal advice only from a lawyer whose identity is verifiable in the Legal Directory.

The Malaysian Bar remains committed to upholding the rule of law and safeguarding public interest. We encourage all members of the public to use the resources available to them to make informed decisions about their legal representation or when engaging legal services.

The Malaysian Bar Condemns Global Sumud Flotilla Interception, Welcomes the Planned Release of Malaysian Nationals, and Urges Urgent Action

3 October 2025

The Malaysian Bar condemns Israel's interception of civilian vessels as part of the Global Sumud Flotilla ("GSF") and the illegal detention of our Malaysian nationals, which reportedly occurred on international waters off the Gaza coast.[1] At the time of this statement, 40 vessels were intercepted[2] and 23 Malaysians have been illegally detained by the Israel Defense Forces.[3] Such conduct amounts to violations of customary international law that are codified in international legal instruments, including Articles 17 and 87 of the United Nations Convention on the Law of the Sea,[4] Fourth Geneva Convention of 1949,[5] and United Nations Security Council Resolution 2728.[6]

Humanitarian assistance to civilians is a right recognised under international law. States have an obligation to facilitate the rapid and unimpeded passage of relief supplies to civilians in need, subject only to impartial and reasonable supervision.[7] Reports of force being employed against humanitarian vessels raise concerns of breaches of these obligations.[8]

The role of the Malaysian Bar in this context is clear: our statement forms part of a collective professional record that strengthens global efforts to secure humanitarian access, protect civilians, and achieve eventual justice. As the former Chair of the United Nations' Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, Mohan Pieris, warned:

> *"Under our watch, we have been permitting the clock to turn back to an era of unchecked barbarity … So I ask the question: to what end does our silence ultimately serve? Surely, it is serving to tear lives apart, fuel endless cycles of violence, set an entire region ablaze, and dismantle the very protections we established to safeguard humanity — all for the short-term geopolitical interests of a few … I urge each and every one of you: do not turn a deaf ear. History will not forgive or forget our inaction and complicity."*[9]

Given these realities, the Malaysian Bar's calls for action are as follows:

(a) While we note the Israeli Foreign Ministry's announcement that the detainees are in good health and will be deported to Europe,[10] we stress that Israel must follow through by ensuring full compliance with international law by securing their prompt release;[11]

(b) Israel must comply fully with the provisional measures ordered in the case of South Africa v. Israel by the International Court of Justice ("ICJ");[12]

(c) Israel must comply with the recommendations outlined in Part VIII of the "Legal analysis of the conduct of Israel in Gaza pursuant to the Convention on the Prevention and Punishment of the Crime of Genocide" by the Independent International Commission of Inquiry on the occupied Palestinian territory, including East Jerusalem, and Israel;[13]

(d) The Government of Malaysia should explore all avenues in supporting the ongoing proceedings before the ICJ in the case of *South Africa v. Israel*;[14]

(e) The international community must protect civilians and hold Israel accountable for their actions; and

(f) Law Societies and Bar Associations across the globe must persist in holding their governments accountable to the international rule of law.

The Malaysian Bar is in solidarity with those who have been detained, the many more who have been hindered from carrying out humanitarian initiatives, and the civilian lives lost during this crisis. All parties must be reminded that the protection of civilians is an obligation *erga omnes* — towards all.

1 "Israel intercepts Gaza Sumud flotilla vessels: What we know so far", *Al Jazeera*, 1 October 2025; "Israel intercepts Gaza flotilla and detains activists including Greta Thunberg", *BBC*, 2 October 2025.

2 "Israeli military stops nearly all boats in aid flotilla, sparking global protests", *Reuters*, 3 October 2025.

3 "PM Anwar confirms 23 Malaysians detained by Israeli forces", *Sinar Daily*, 2 October 2025.

4 United Nations Convention on the Law of the Sea of 10 December 1982, United Nations website, 2001.

5 Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949, International Humanitarian Law Databases.

6 Resolution 2728 (2024) Adopted by the Security Council at its 9586th meeting, on 25 March 2024, United Nations Security Council, 2024.

7 Rule 55. Access for Humanitarian Relief to Civilians in Need, International Humanitarian Law Databases.

8 "Israeli Forces Ram Gaza-Bound Flotilla Vessel, Fire Water Cannons at Fleet", *Bernama*, 2 October 2025.

9 The Question of Palestine, United Nations website, 2024.

10 "Israel to deport Global Sumud Flotilla volunteers to Europe, including 12 Malaysians", *Malay Mail*, 3 October 2025.

11 Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Office of the High Commissioner for Human Rights ("OHCHR") website, 1996–2005.

12 Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel): Request for the indication of provisional measures", pages 8 and 9, International Court of Justice, 2024.

13 Legal analysis of the conduct of Israel in Gaza pursuant to the Convention on the Prevention and Punishment of the Crime of Genocide: Conference room paper of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, Human Rights Council, Sixtieth Session, 16 September 2025.

14 Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel), International Court of Justice website, 2017–2025.

Malaysian Bar Urges for Intervention to Halt the Impending Execution of Pannir Selvam Pranthaman

6 October 2025

On 4 October 2025, it was reported that Malaysian national Pannir Selvam Pranthaman has been scheduled to be executed in Singapore on Wednesday morning (8 October 2025)[1]. Pannir Selvam is a hard-working young man from Ipoh who worked multiple shifts as a security guard in Singapore to sustain himself and help his family.[2] He placed his trust in the wrong individual and was persuaded to transport what was thought to be medicine, unaware of the nature of what he was carrying.[3] He was eventually convicted of importing 51.84g of diamorphine into Singapore[4]. His sister, Angelia Pranthaman, told the press that prison authorities had informed her that the notice of execution had been issued to the family.[5]

The Malaysian Bar is, and always has been, opposed to the death penalty[6] and reiterates that capital punishment violates the fundamental right to life, and there is no conclusive evidence that capital punishment leads to a reduction in drug abuse or trafficking.[7]

In the case of Pannir Selvam, concerns have been raised that his imminent execution would have a grave impact on ongoing law enforcement efforts. Member of Parliament for Bukit Gelugor Ramkarpal Singh, also the former Deputy Minister in the Prime Minister's Department for Law and Institutional Reform, informed the public that Pannir Selvam has been actively assisting the Royal Malaysia

Police in its investigations into a cross-border drug trafficking network[8]. These investigations, initiated on the basis of police reports filed between 2018 and 2025, concern information on individuals believed to be involved in supplying the narcotics to Pannir Selvam and persuading him to transport the same into Singapore.[9]

Further, it was revealed that on 27 September 2025, the Royal Malaysia Police was granted access to interview Pannir Selvam at Changi Prison[10]. The interview lasted for approximately three hours, during which time, Pannir Selvam provided crucial information on a cross-border drug syndicate[11]. Ramkarpal Singh noted that the investigations remain ongoing, and that Pannir Selvam may serve as a material witness in any prosecutions that follow as a result of the investigations.[12]

This imminent execution is a troubling development and must be viewed in the wider context of international human rights obligations. International human rights law restricts the death penalty to only the "most serious crimes", a threshold that does not encompass drug-related offences[13] — more so in the present case, wherein Pannir Selvam was a drug mule. In respect of this matter, the imposition of a mandatory death sentence also strips the judge of any discretion to consider mitigating factors, including Pannir Selvam's role as a mere courier. While the court in Pannir Selvam's case acknowledged his limited involvement, the prosecution declined to issue a Certificate of Substantive Assistance.[14]

The Malaysian Bar is further guided by the jurisprudence of eminent jurists on the philosophy of sentencing. Justice V R Krishna Iyer of the Indian Supreme Court, in *Mohammad Giasuddin v State of Andhra Pradesh* (1977) 3 SCC 287, famously declared:

> *"Crime is a pathological aberration. The criminal can ordinarily be redeemed and the state has to rehabilitate rather than avenge... Therefore, the focus of interest in penology is the individual and the goal is salvaging him for society. The infliction of harsh and savage punishment is thus a relic of past and regressive times. The modern community, with its concern for human rights, frowns upon the deterrence and retributive elements in punishment. Sentencing should focus on reformation, so that the offender repents and returns to society as a responsible citizen."*

We are reminded of Pannir Selvam's own words as a poet and advocate from behind prison walls, "... not death in death row, but mercy and forgiveness …"[15]. His plea reflects a higher call to justice, one that recognises the futility of the death penalty as a deterrent, and instead embraces the values of compassion, redemption, and human dignity.

Importantly, Pannir Selvam has extended his cooperation to the Malaysian law enforcement, assisting in ongoing investigations into a cross-border drug syndicate. To halt his execution and commute his sentence would not only affirm the strength of mercy but also uphold the cause of justice by ensuring that those truly responsible are brought to account. In doing so, the Government of Singapore would demonstrate that true justice is measured not by severity, but by humanity, fairness, and the courage to choose compassion over finality.

In view of Pannir Selvam's imminent execution, the Malaysian Bar urge and appeal for the following:

(1) Urgent and decisive action by the Malaysian Government to use all available legal and diplomatic avenues to halt the execution of Pannir Selvam in view of the assistance he has rendered to the Malaysian law enforcement in an active and ongoing investigation into a cross-border drug syndicate;

(2) A direct appeal to the Government of Singapore to halt the execution of Pannir Selvam, acknowledging both his role as a mere courier and his cooperation with authorities in ongoing investigations into a cross-border drug syndicate;

(3) The Governments of Malaysia and Singapore to take all necessary and pragmatic steps to defer the sentence handed down to Pannir Selvam to enable him to see his cooperation all the way through to giving evidence in any and all proceedings that may follow or relate to the investigations in which his assistance could prove useful or crucial;

(4) The Governments of Malaysia and Singapore to undertake their best endeavours to spare the life of Pannir Selvam and to commute his sentence to imprisonment and allow him a chance at rehabilitation instead; and

(5) That civil societies on both sides of the Causeway raise and lend their voice in support of mercy, justice, and compassion to spare a life and a soul who has shown repentance and cooperated with the authorities in the fight against the peddlers of substance abuse.

1 "Malaysian Pannir Selvam to be executed in Singapore Oct 8", *The Star*, 4 October 2025.

2 "Pannir Selvam: The Ipoh boy on Singapore's death row (Part I)", *Malay Mail*, 28 June 2019.

3 *Ibid*.

4 *Supra* note 1.

5 "Pannir Selvam to be executed on Oct 8, says sister", *Free Malaysia Today*, 4 October 2025.

6 "Press Release | The Malaysian Bar Presses for the Abolition of the Death Penalty and Calls for Regional Cooperation to Uphold the Right to Life", Malaysian Bar website, 11 March 2025; "Press Release | Abolition of Mandatory Death Penalty a Step Towards the Right Direction, but Abolish Capital Punishment Entirely", Malaysian Bar website, 11 June 2022; "Press Release | The Malaysian Bar Renews its Calls to Abolish the Death Penalty", Malaysian Bar website, 19 November 2020; "Press Release | In Commemoration of the World Day Against the Death Penalty, the Malaysian Bar Renews its Call for the Abolition of the Death Penalty", Malaysian Bar website, 10 October 2020.

7 The death penalty: No solution to illicit drugs (Index No. ACT 51/002/1995), Amnesty International, 2 October 1995.

8 "Executing Pannir risks compromising probe into drug syndicate, warns MP", *Free Malaysia Today*, 5 October 2025.

9 "Halt Pannir Selvam's execution until police complete drug syndicate probe", *New Straits Times*, 4 October 2025.

10 *Ibid*.

11 *Ibid*.

12 *Ibid*.

13 Safeguards guaranteeing protection of the rights of those facing the death penalty (Resolution 1984/50), United Nations Economic and Social Council, 25 May 1984.

14 Joint Statement: Malaysia Must Intervene to Stop the Execution of Pannir Selvam and Others on Death Row in Singapore, Amnesty Malaysia, 6 February 2025.

15 Pannir Selvam, A poetry collection (Part 2), Pannir Selvam, 2023, Penwings Publishing.

Memahami Profesion Undang-Undang: Siapakah Peguam?

7 Oktober 2025

Kebolehcapaian media sosial yang meluas telah menjadikan orang awam lebih terdedah kepada individu yang menyamar sebagai peguam. Individu yang tidak beretika ini sering mengelirukan orang awam untuk mempercayai bahawa mereka layak untuk menawarkan nasihat undang-undang. Perbuatan salah laku sebegini bukan sahaja membahayakan hak klien yang tidak menyedari perkara itu, malah menghakis kepercayaan terhadap sistem perundangan. Oleh itu, adalah penting untuk mendidik orang awam tentang kelayakan dan peranan pengamal undang-undang untuk memastikan mereka mengetahui siapa yang berhak di sisi undang-undang untuk menyediakan perkhidmatan undang-undang. Ini adalah sebahagian daripada komitmen berterusan Badan Peguam Malaysia untuk mengukuhkan keyakinan awam terhadap profesion undang-undang dan melindungi kepentingan awam.

Dalam negara ini, gelaran peguam hanya diberikan kepada seseorang yang telah diterima masuk dan didaftaraikan sebagai seorang "peguam bela dan peguam cara Mahkamah Tinggi". Gelaran ini tidak diberikan secara automatik kepada individu sebaik sahaja menamatkan pengajian dengan ijazah undang-undang. Menurut seksyen 10 Akta Profesion Undang-Undang 1976, seseorang itu mesti terlebih dahulu menjadi "orang berkelayakan" sebelum memulakan perjalanan untuk menjadi seorang peguam yang beramal. Proses ini termasuk memperoleh ijazah undang-undang yang diiktiraf, lulus peperiksaan profesional yang berkaitan seperti Sijil Amalan Guaman (*Certificate in Legal Practice,* "CLP") jika diperlukan, dan melengkapkan tempoh latihan yang wajib selama sembilan bulan, yang dikenali sebagai *pupillage* atau *chambering*.

Profesion undang-undang adalah satu profesion bercantum, yang bermakna seseorang individu yang berkelayakan boleh melaksanakan fungsi sebagai peguam bela dan peguam cara. Situasi ini boleh menimbulkan kekeliruan bagi mereka yang biasa dengan sistem perundangan di negara lain, yang memperuntukkan peranan yang berasingan bagi peguam bela dan peguam cara. Istilah-istilah berikut diperjelas untuk memberikan pemahaman yang lebih baik tentang profesion ini:

- Peguam bela dan peguam cara: Seorang peguam yang berkelayakan memegang gelaran "peguam bela dan peguam cara" dan diberi kuasa untuk melaksanakan kedua-dua peranan ini, iaitu mewakili klien di mahkamah dan mengendalikan perkara di luar mahkamah, seperti merangka perjanjian dan memberikan nasihat undang-undang.
- Graduan undang-undang: Graduan undang-undang adalah individu yang telah menamatkan ijazah undang-undang dan belum memenuhi syarat-syarat keperluan profesional untuk mengamalkan undang-undang, seperti lulus peperiksaan kelayakan peguam *(Bar exam)* dan CLP, jika diperlukan, dan menamatkan tempoh latihan.

- Penasihat undang-undang dalaman *(In-house legal counsel)*: Penasihat undang-undang dalaman biasanya diambil bekerja oleh syarikat yang mempunyai jabatan undang-undang dalaman. Walaupun ramai penasihat undang-undang dalaman adalah bekas peguam yang beramal, mereka tidak diwajibkan untuk memiliki Sijil Amalan *(Practising Certificate)* yang sah untuk melaksanakan tugas mereka. Oleh itu, mereka hanya boleh memberikan nasihat undang-undang dalam kapasiti terhad dalam aktiviti syarikat tersebut.
- Berdasarkan perbezaan-perbezaan ini, adalah penting bagi orang awam untuk mengesahkan sama ada seseorang individu itu benar-benar seorang peguam yang beramal. Semakan boleh dibuat melalui Direktori Undang-Undang rasmi Badan Peguam Malaysia. Direktori ini merupakan daftar atas talian yang menyenaraikan ahli-ahli Badan Peguam Malaysia dan firma guaman di Malaysia.

Direktori Undang-Undang ini bertindak sebagai mekanisme perlindungan orang awam daripada individu yang menipu dengan mendakwa diri mereka sebagai peguam. Dengan membuat semakan mudah melalui Direktori ini, orang awam dapat mengesahkan sama ada individu berkenaan benar-benar seorang peguam, sekali gus melindungi diri mereka sebelum mendapatkan perkhidmatan guaman.

Sekiranya seseorang individu itu tidak disenaraikan dalam Direktori Undang-Undang, maka individu tersebut tidak berhak memberikan apa-apa nasihat atau perkhidmatan guaman kepada orang awam. Jika anda menemui seseorang yang mendakwa menawarkan perkhidmatan ini tetapi namanya tidak terdapat dalam Direktori Undang-Undang, sila abaikan nasihatnya dan dapatkan nasihat undang-undang hanya daripada peguam yang identitinya dapat disahkan melalui Direktori Undang-Undang.

Badan Peguam Malaysia kekal komited untuk menegakkan kedaulatan undang-undang dan menjaga kepentingan awam. Kami menggalakkan orang awam untuk menggunakan sumber yang tersedia untuk mereka bagi membuat keputusan yang termaklum tentang perwakilan undang-undang atau apabila mendapatkan perkhidmatan guaman.

Malaysian Bar Welcomes Mobile Labour Court and Other Access to Justice Initiatives

24 October 2025

The Malaysian Bar welcomes the Ministry of Human Resources ("MOHR")'s expansion of the Mobile Labour Court (Mahkamah Buruh Bergerak), a significant step towards improving access to justice for workers nationwide.

We also welcome the announcement by the Minister in the Prime Minister's Department (Law and Institutional Reform), Dato' Sri Azalina Othman Said, who heads the Legal Affairs Division of the Prime Minister's Department (Bahagian Hal Ehwal Undang-Undang Jabatan Perdana Menteri, "BHEUU"), that the Keadilan Bergerak (Justice on Wheels) programme will be expanded to Peninsular Malaysia.[1] The programme, which is already in operation in Sabah and Sarawak, has received support from the Chief Justice of Malaysia, YAA Dato' Wan Ahmad Farid bin Wan Salleh, and ensures that court and legal aid services reach communities with limited access to justice.

The Malaysian Bar further notes with appreciation BHEUU's initiative to include facilities such as a child witness room within the mobile court,[2] enabling children to give evidence in a safe and supportive environment. This reflects that justice can be both effective and compassionate.

The Malaysian Bar fully supports these efforts, which bring the justice system closer to the people it serves. We stand ready to work with the Government and all relevant agencies to ensure these mobile justice initiatives are implemented successfully.

These developments mark meaningful progress in strengthening access to justice and reaffirm the shared responsibility to make justice in Malaysia not only a principle, but a lived reality for all.

1 "Mahkamah bergerak bakal diperluas ke Semenanjung – Azalina", *Malaysia Gazette*, 18 August 2025; "Govt proposes rolling out mobile courts in rural areas, says Azalina", *Free Malaysia Today*, 18 August 2025.

2 "Kerajaan perkukuh undang-undang, perkenal mahkamah bergerak lindungi kanak-kanak", *Harian Metro*, 11 August 2025; "Govt Strengthen Legal Framework to Protect Children from Sexual Crimes", *Bernama*, 11 August 2025.

The Independence of the Legal Profession and the Bar in a Democratic Society is the Keystone Upon Which the Rule of Law and Constitutionalism are Built

4 November

In recent times, the MADANI Government has publicly declared that they wished to reform the Legal Profession Qualifying Board ("LPQB"),[1] which is established under Part II of the Legal Profession Act 1976 ("LPA"). The role of the LPQB is to maintain standards and determine qualifications for admission of advocates and solicitors in Malaysia — a responsibility that directly shapes the future of the legal profession and its ability to act without fear or favour — and most importantly, the duty lawyers play in providing invaluable legal advice and representation to the public.

The Malaysian Bar recognises that, with the effluxion of time, some reforms of the LPQB may be inevitable. However, all proposals for reform should be scrutinised on their individual merits to ensure that they streng then and do not undermine or compromise the LPQB's autonomy, as this can impact the standards of competency of lawyers and their ability to advise and represent their clients — the rakyat.

The independence of the LPQB is inseparable from the independence of the legal profession itself — a principle recognised internationally as fundamental to the rule of law. The International Bar Association ("IBA") Standards for the Independence of the Legal Profession affirm that:

> "An equitable system of administration of justice which guarantees the independence of lawyers in the discharge of their professional duties without any improper restrictions, pressures or interference, direct or indirect, is imperative for the establishment and maintenance of the rule of law."[2]

As aptly observed by The Hon Michael Kirby AC CMG of Australia, as quoted in the Report by the IBA on the Independence of the Legal Profession:

> "Where there is no independent legal profession there can be no independent judiciary, no rule of law, no justice, no democracy and no freedom."[3]

In reforming the LPQB, the overriding objective must be to ensure that the LPQB operates independently and professionally, without compromise and interference from any quarter, as there can be no compromise on legal education and the legal profession.

The Malaysian Bar looks forward to working with all stakeholders in open, transparent, and good-faith dialogue, guided by clarity of purpose and an unwavering commitment to the public interest and the rule of law. The future of the legal profession, the interests of the public, as well as the cause of justice in a democratic Malaysia, can only be served by an independent and meaningful LPQB.

1 "LPQB To Be Transformed Into Body Corporate Under New Policy Measures", *Bernama*, 9 October 2025; "Kerajaan setuju tambah baik struktur Lembaga Kelayakan Profesion Undang-Undang (LPQB)", Berita Harian, 9 Oktober 2025.

2 IBA Standards for the Independence of the Legal Profession (Adopted 1990); " and "IBA Standards for the Independence of the Legal Profession", *The principle of independence of lawyers: UN and IBA reference instruments*, International Bar Association: Human Rights Institute, 2020.

3 The Independence of the Legal Profession: Threats to the bastion of a free and democratic society, "A report by the IBA's Presidential Task Force on the Independence of the Legal Profession", September 2016.

The Malaysian Bar Welcomes ASEAN's Landmark Declaration on the Right to a Safe, Clean, Healthy and Sustainable Environment

13 November 2025

> *"Above all, a lasting and satisfactory solution requires human will and wisdom — at the individual, social and political levels — to change our habits, comforts and current way of life in order to secure a future for ourselves and those who are yet to come."*
>
> International Court of Justice ("ICJ")'s Advisory Opinion on Obligations of States in Respect of Climate Change[1]

The Malaysian Bar welcomes the historic adoption of the ASEAN Declaration ("Declaration") on the Right to a Safe, Clean, Healthy and Sustainable Environment, adopted by ASEAN Member States on 26 October 2025 during the 47th ASEAN Summit held in Kuala Lumpur.[2]

This landmark Declaration represents a decisive regional commitment to uphold the universal human right to a safe, clean, healthy, and sustainable environment. It is recalled that the United Nations General Assembly had, on 28 July 2022, adopted Resolution A/RES/76/300 ("UNGA Resolution 76/300") recognising the human right to a clean, healthy and sustainable environment for all people, calling upon States to scale up efforts to ensure a healthy environment. This right is now firmly embraced within ASEAN's own human rights framework through the Declaration.

The Malaysian Bar commends the Declaration's holistic approach, which emphasises access to information, public participation, access to justice and corporate accountability. These are vital in ensuring that environmental protection is not only aspirational but also enforceable and inclusive. The inclusion of "safe" in the definition of the Declaration underscores ASEAN's acknowledgment that environmental degradation threatens not only ecosystems but also human health, security, and social stability.

The Declaration comes in the wake of the Advisory Opinion of the ICJ on the Obligations of States in Respect of Climate Change, issued on 23 July 2025.[3] In that unanimous opinion, the ICJ reaffirmed that States have *erga omnes* obligations — obligations owed to the international community as a whole to prevent environmental harm and to take effective measures to address the climate crisis.[4]

The ICJ made clear that:

(1) climate change constitutes an urgent and existential threat, requiring "deep, rapid and sustained" reductions in greenhouse gas emissions;
(2) States must regulate fossil fuel activities and ensure their environmental impact assessments include full life-cycle emissions;
(3) the human right to a clean, healthy and sustainable environment is essential to the enjoyment of all other human rights; and
(4) Failure to act on climate change may give rise to State responsibility, including obligations to provide reparation or revoke measures that contribute to environmental harm.

Taken together, the ASEAN Declaration, ICJ's Advisory Opinion and UNGA Resolution 76/300 send an unmistakable signal: the right to a clean and healthy environment is a legal and moral imperative binding upon all nations, as humanity works towards combating the triple planetary crisis of climate change, pollution and biodiversity loss.

In the light of these developments, the Malaysian Bar calls on the Government of Malaysia to promptly amend our Federal Constitution to expressly recognise the right to a safe, clean, healthy and sustainable environment.

In the meantime, the Malaysian Bar urges the Government of Malaysia to incorporate this fundamental right in upcoming legislation, such as the National Climate Change Bill presently under development, and systematically review all relevant laws to give effect to the principles embodied in the Declaration.

Such legislation should operationalise the right to a safe, clean, healthy and sustainable environment by:

(1) strengthening Malaysia's legal and institutional framework for environmental protection;
(2) ensuring accountability of public and private actors for environmental harm;
(3) guaranteeing access to information, public participation and access to justice in environmental matters; and

(4) aligning Malaysia's domestic laws and policies with its regional and international commitments.

As environmental challenges intensify — from climate-induced disasters to toxic pollution and biodiversity loss — the time has come for Malaysia to translate regional commitments into domestic action. Enacting laws that reflect the Declaration's principles will anchor Malaysia's environmental governance in justice, sustainability, and human dignity.

The Malaysian Bar stands ready to support the Government, Parliament, and relevant stakeholders in developing and implementing legislation that ensures the full realisation of the right to a safe, clean, healthy and sustainable environment.

In safeguarding the environment, we safeguard life itself, for this generation and the next.

1 Obligations of States in Respect of Climate Change (Advisory Opinion, General List No. 187), International Court of Justice, 23 July 2025, The Hague: International Court of Justice.

2 ASEAN Declaration on the Right to a Safe, Clean, Healthy and Sustainable Environment, Association of Southeast Asian Nations (ASEAN) website, 28 October 2025.

3 *Supra* note 1.

4 *Supra* note 1, para 442.

Continuity in the Judiciary and Judicial Appointments

18 November 2025

The Malaysian Bar notes the appointment of the President of the Court of Appeal, The Right Honourable Justice Dato' Abu Bakar bin Jais, as Acting Chief Judge of the High Court of Malaya ("Chief Judge of Malaya"),[1] following the recent retirement of Tan Sri Hasnah binti Dato' Mohammed Hashim last week.[2] We further note that the Judicial Appointments Commission ("JAC") is currently operating with only seven members,[3] despite section 5(1) of the Judicial Appointments Commission Act 2009 stipulating that the Commission shall comprise nine Commissioners.

In our press release dated 19 September 2024 titled "There is an Urgent Need to Appoint a New Chief Judge of Malaya", the Malaysian Bar cautioned that the prolonged vacancy of the Chief Judge of Malaya could undermine the perception of stability and leadership within the Judiciary.[4] Additionally, at the 79th Annual General Meeting of the Malaysian Bar on 15 March 2025, we adopted the "Resolution on the Judiciary and Malaysian Bar",[5] reaffirming our unwavering commitment to defending the independence of the Judiciary without fear or favour, as a fundamental statutory and constitutional duty.

In the light of the current vacancies and interim arrangements within the Judiciary, we consider it prudent to highlight that while an acting appointment has been made, this arrangement should not extend for an undue period. Senior judicial offices carry significant administrative and institutional responsibilities, and prolonged interim occupancy is neither ideal nor consistent with the expectations of orderly succession within the Judiciary.

The JAC is responsible for identifying and recommending suitable candidates for appointment to the Superior Courts. Its work is central to ensuring integrity, transparency and merit in the judicial appointments process. When the office of the Chief Judge of the High Court of Malaya remains occupied by an interim appointee, and the senior Federal Court judicial seat on the JAC is also vacant, the JAC does not sit with its full judicial complement. This may affect its ability to deliberate and make recommendations efficiently.

Timely attention to these matters is essential. The orderly functioning of the Judiciary depends on the continuity of its leadership and the proper constitution of the JAC. Addressing these vacancies without delay will affirm Malaysia's commitment to a stable, independent and effective judicial system. It will also assure the public, the legal profession and all branches of Government that the administration of justice remains anchored in certainty, principle and respect for the constitutional framework.

1 "Court of Appeal president appointed acting Chief Judge of Malaya", *Free Malaysia Today*, 17 November 2025.

2 "Chief Judge Hasnah and Justice Hanipah honoured for decades of judicial service", *New Straits Times*, 13 November 2025.

3 Who are the members of the Judicial Appointments Commission? Judicial Appointments Commission (Malaysia) website, retrieved on 18 November 2025.

4 "Press Release | There is an urgent need to appoint a new Chief Judge of Malaya", Malaysian Bar website, 19 September 2024.

5 "Resolution on the Judiciary and Malaysian Bar", Resolution adopted at the 79th Annual General Meeting of the Malaysian Bar, Malaysian Bar website, 15 March 2025.

The Malaysian Bar Welcomes Amendments to Strengthen Social Protection Under the Employment Insurance System and Employees' Social Security Framework

19 November 2025

The Malaysian Bar welcomes the tabling of the Employment Insurance System (Amendment) Bill 2025 in the Dewan Rakyat (House of Representatives) on 4 November 2025[1] and the Employees' Social Security (Amendment) Bill 2025 on 30 October 2025, and expresses its support for the Government's ongoing efforts to strengthen Malaysia's social protection landscape.

The proposed amendments to the Employment Insurance System Act 2017 (Act 800) and the Employees' Social Security Act 1969 introduce significant improvements that expand coverage, enhance benefits, and modernise the delivery of employment services. These reforms are aligned with the objective of ensuring a more responsive, inclusive, and future-ready labour market.

The amendments to Act 800 introduce several substantive enhancements, including the creation of a new mobility assistance allowance of RM1,000 for individuals who secure employment within 12 months following their last job search or early re-employment allowance. The Malaysian Bar recognises that this measure will help ease transition costs for jobseekers moving into new roles.

It is also praiseworthy that there will be an improvement in benefit rates, including increased training allowances from RM10–RM20 to RM30 per day, higher maximum training fees from RM4,000 to RM7,000, and an enhanced early re-employment allowance from 25% to 50%, all of which provide more meaningful support to workers experiencing employment disruption.

It is further commendable that the Employment Insurance System (Amendment) Bill 2025, which amends Act 800, further enhances the Government's ability to implement active labour market programmes by empowering the Social Security Organisation ("SOCSO") (Pertubuhan Keselamatan Sosial, "PERKESO") to carry out Government-directed schemes, training initiatives, and financial assistance aimed at strengthening workforce readiness.

The Act 800 has also been expanded to empower SOCSO to provide employment services to all persons, including non-contributors to the Employment Insurance Fund, through job brokerage such as job matching, counselling and career advisory services, as well as the appointment of licensed employment agents to assist with job brokerage.

While we acknowledge the potential value of these expanded services, we emphasise the need for clarity regarding the governance framework and the costs associated with appointing employment agents. Further, the Malaysian Bar questions whether SOCSO is institutionally suited to take on a broader employment brokerage role.

Additionally, the Malaysian Bar notes the concerns regarding the new requirement for employers to notify SOCSO of all job vacancies or new positions before hiring, as well as to report when the positions are filled. While this obligation aims to strengthen job matching and labour market data, it may impose unnecessary administrative burdens and will require clear guidelines on timing and procedures.

With respect to the Employees' Social Security Act 1969, the Malaysian Bar welcomes the introduction of non-employment injury protection, which is a major reform that expands SOCSO coverage to injuries occurring outside the workplace. This includes a new definition of "non-employment injury" in section 2 of the Act, and the introduction of section 96B to the Act, which allows formal workers to receive social security benefits even if injuries occur beyond the course of employment, reflecting a forward-looking 24/7 protection model.

These amendments ensure that SOCSO contributions can be utilised more effectively to protect workers in critical situations. The amendments also introduce three phases of contributions — First, Second, and Third Phases — where employee contribution rates will progressively increase to support non-employment injury protection, while employer contributions remain unchanged across all categories. Although this provides greater coverage, clear communication is required to prevent workers from being caught off guard by phased contribution increases.

Key benefit entitlements under sections 15, 22, 26, 29, and 37, including temporary and permanent disablement benefits, dependants' benefits, funeral

benefits, and rehabilitation benefits, will now extend to non-employment injuries, providing more comprehensive protection for insured workers and their dependants. We take note of the concerns regarding the compulsory nature of the non-employment injury coverage, which effectively introduces a form of mandatory insurance that extends beyond traditional employment-related risks. While the intention is laudable, a balanced approach is necessary to ensure enhanced worker protection without imposing disproportionate financial burdens.

These reforms represent a meaningful step toward improving job security, promoting labour mobility, enhancing benefit adequacy and ensuring that the social protection framework remains responsive to evolving workforce realities. The Malaysian Bar encourages continued engagement with stakeholders, including workers, employers, and civil society, to ensure that implementation remains clear, transparent and equitable. The Malaysian Bar stands ready to participate in future consultations to support the progressive development of Malaysia's employment and social protection laws.

1 "Tabling of Bill to Amend Employment Insurance System Act Reflects Govt's Commitment to Workers' Social Protection", *Bernama*, 4 November 2025.

Malaysian Bar Calls for Transparency in Judicial Appointments Commission Appointment

20 November 2025

The Malaysian Bar takes note, with grave concern, of the appointment of Tan Sri Ahmad Terrirudin b Mohd Salleh to the Judicial Appointments Commission ("JAC").[1] While the power of appointment lies with the Prime Minister,[2] the lack of transparency surrounding the process, including the considerations applied, is troubling.

The appointment pursuant to section 5(1)(e) of the Judicial Appointments Commission Act 2009 has traditionally been held by the most senior members of the Federal Court. Departing from this practice raises legitimate questions about the basis for the decision, particularly in the absence of any clear explanation of the criteria used. Predictability, clarity and respect for established norms are essential to sustaining public confidence in the independence of the judiciary.

The JAC plays a pivotal role in safeguarding judicial independence by recommending candidates for the highest judicial offices. It is therefore essential that its composition and decision-making process inspire public confidence. When appointments to the JAC appear opaque or lack a clear rationale, it risks undermining confidence in the entire judicial system. Transparency is essential to ensure that the public can be confident that appointments are made solely on merit, free from political or other undue influence.

We remain steadfast in our commitment to the independence and integrity of the judiciary.

1 "ExAG Ahmad Terrirudin joins Judicial Appointments Commission as eighth member", *The Edge Malaysia*, 19 November 2025.

2 Section 5(1)(e) of the Judicial Appointments Commission Act 2009.

Legal Education Should be Free from Executive Encroachment

20 November 2025

On 17 November 2025, the Government tabled the Legal Profession (Amendment) (No. 2) Bill 2025 ("November Bill") for its first reading before the Dewan Rakyat. The November Bill was presented by YB M Kulasegaran, Deputy Minister in the Prime Minister's Department (Law and Institutional Reform). The November Bill seeks to amend the Legal Profession Act 1976 ("LPA") in relation to the Legal Profession Qualifying Board ("LPQB").

Since its establishment in 1976, the LPQB has maintained its present form[1] and has been chaired by the Attorney General. The LPQB also comprises two judges nominated by the Chief Justice, the Chairman

of the Bar Council, and a senior academic from a Malaysian Faculty of Law, ie five Board members.

In recent times, the LPQB has come under fire from Members of Parliament,[2] with attention being drawn to the total funds in its accounts of approximately RM55.2 million.[3] A new section 9A of the LPA has already been passed into law by Parliament in May 2025 to mandate an annual audit by the Auditor General to address and to ensure financial transparency.

While the Malaysian Bar continues to welcome amendments that strengthen governance and transparency, we vehemently oppose other proposed amendments that allow for political or executive appointment, influence and interference in the composition of the Board.

The November Bill proposes to alter the LPQB's composition by empowering the Minister for Law to appoint and remove a majority of LPQB Board members. Specifically, the November Bill proposes to give the Minister the power to appoint eight out of 13 Board members; a new power that presently does not exist in the LPA. The November Bill also proposes to grant the Minister the power to remove seven of the 13 Board members without assigning reasons. Such provisions gravely compromise professional independence by creating an LPQB heavily shaped by the executive, while reducing the Malaysian Bar and the judiciary to a minority of three out of the 13 Board positions.

The November Bill further proposes to allow the Minister to determine the pay and perks of members of the Board. We are gravely concerned that enlarging the Board from five to 13 members, with further powers to create an unlimited number of committees with consequential allowances and expenses, may result in a depletion of the LPQB's funds and an increase in costs to law students, which is the opposite of what responsible reform requires.

If the leadership of the LPQB is entrusted to the Malaysian Bar, as it should have been all along, we pledge to reduce operational expenditure and fees chargeable to law students while ensuring governance that is transparent, professional and accountable.

The Malaysian Bar vehemently opposes the proposals in the November Bill proposing to create a new power of the Minister to appoint and remove Board members and believes that the LPQB should be led and chaired by the Malaysian Bar with balanced representation from the judiciary, qualified academics and the legal profession; free from political and executive appointment, involvement and interference.

The Malaysian Bar is disappointed with the Government's proposals and with the limited number of consultation sessions held by the Government. Despite this, we had articulated our position and formally recorded our disagreement and concerns regarding the proposed amendments as far back as May 2025, when we submitted our detailed feedback to the Legal Affairs Division of the Prime Minister's Department; and again in early November. It is unfortunate that our feedback and concerns have been disregarded.

The Hon Dr Lloyd Barnett, OJ, the former President of the Organisation of Commonwealth Caribbean Bar Associations[4] warned that *"a legal profession which is controlled or manipulated or intimidated by politicians cannot effectively carry out its duty of sustaining the independence of the administration of justice. As a corollary, despotic government usually commences with the suppression of the legal profession".*[5]

The Malaysian Bar calls upon the Government, YB Dato' Sri Azalina bt Othman Said, the Honourable Minister and YB M Kulasegaran, the Honourable Deputy Minister, as members of the legal fraternity who are looked up to by their peers, for responsible leadership and to heed this principle.

While the Malaysian Bar is in favour of positive reforms to enhance the LPQB, we strongly oppose the political and executive encroachment proposed under the November Bill and the looming increase in costs that the November Bill portends.

1 Legal Profession (Amendment) Act 1983 (A567).

2 "33 years of missing data: Kulasegaran demands probe into Legal Profession Qualifying Board's finances", *Scoop*, 10 July 2024; "Bill to allow audits of Legal Profession Qualifying Board's accounts coming soon: Kula", *Scoop*, 12 November 2024; "LPQB to be audited once Act gazetted, says Deputy Law Minister", *The Star*, 27 February 2025; "Kulasegaran: I'll get legal board to explain in writing over RM500,000 UK trip", *New Straits Times*, 8 October 2025; "LPQB to be Transformed into Body Corporate under New Policy Measures", *Bernama*, 9 October 2025.

3 Parliamentary Debates, Special Chamber, 29 October 2024, pg 14.

4 At a seminar convened by the Centre for the Independence of Judges and Lawyers International Commission of Jurists in 1988.

5 The Independence of Judges and Lawyers in the Commonwealth Caribbean: Report of a Seminar held in Tobago from 12 to 13 September 1988.

The Malaysian Bar Expresses Concern Over Allegations of Bribery Involving Bank Officers and Law Firm

21 November 2025

The Malaysian Bar notes the recent and troubling media reports that several bank officers have been charged with accepting bribes from a law firm.[1] These reports indicate that the officers allegedly received commissions or inducements in exchange for directing customers to a particular firm for financing documentation. This is a serious matter that strikes at public trust, not only in financial institutions but also in the integrity of the legal profession.

The Malaysian Bar thanks the enforcement agencies for treating this matter with the seriousness it deserves. Their firm action sends a clear message that corruption will not be tolerated and that accountability applies to every party involved.

These revelations are a harsh reminder of a more profound and long-standing problem — "nanah dalam daging" — that has affected the legal industry for years. Such practices distort competition, erode professionalism and directly harm the economic well-being of honest lawyers who refuse to engage in corrupt arrangements.

The Malaysian Bar unequivocally condemns all forms of corruption. Integrity and independence are essential pillars of the legal profession, and any conduct that undermines these values cannot be excused.

The Bar Council will lodge disciplinary complaints against any lawyer or law firm implicated. So, lawyers who choose to engage in such corrupt practices should take heed. They can no longer assume that silence will protect them, as law firms involved in such schemes may now turn against those who facilitated or solicited these payments, whether through cooperation with investigators or through disciplinary proceedings.

The Malaysian Bar remains committed to safeguarding the honour of the profession and maintaining public confidence in the administration of justice. We will continue to act firmly and responsibly, to uphold the legal profession and whatever it stands for.

1 "One Maybank officer, two former officers charged for receiving bribes from law firm", *New Straits Times*, 19 November 2025.

Malaysian Bar Welcomes the Court of Appeal Circuit Initiative as a Significant Advancement in Access to Justice

27 November 2025

The Malaysian Bar warmly congratulates the Judiciary on the launch of the Court of Appeal Circuit Initiative, with its first sitting held today in Penang. This development marks a meaningful advancement in ensuring that access to justice is not limited by geography, cost or logistical constraints.

The initiative brings clear benefits to all stakeholders. Litigants, counsel, witnesses, and other participants in the justice system will no longer be required to travel to Putrajaya for appellate hearings. This reduces financial burden, saves time and lessens disruption, particularly for vulnerable groups such as prisoners, who would otherwise be transported over long distances.

Circuit sittings also create valuable opportunities for professional growth within the legal community. Appellate work has traditionally been concentrated in Putrajaya, a situation which limits exposure for practitioners outside the Klang Valley. By bringing appellate hearings closer to regional Bars, this initiative strengthens participation, broadens advocacy experience and supports a more even distribution of legal expertise throughout the country.

Importantly, circuit sittings contribute to efficiency within the justice system. By decentralising hearings, the Court of Appeal can manage caseloads more effectively, expedite disposal timelines and ease pressure on Putrajaya's docket, while serving communities where the disputes arise.

The Malaysian Bar expresses its sincere appreciation to the Judiciary for adopting a forward-looking, people-centred approach. We welcome this initiative as a step that fortifies confidence in the Malaysian justice system and promotes a more accessible and responsive appellate process for all.

Malaysian Bar Reiterates that Legal Professional Privilege Must be Upheld

1 December 2025

The Malaysian Bar is gravely concerned by recent reports that the Malaysian AntiCorruption Commission ("MACC") has issued a notice summoning counsel representing a person under investigation.[1] This step undermines the integrity of legal professional privilege.

The actions of MACC are deeply troubling, as they signal an encroachment on rights central to the administration of justice. As we have reminded MACC in our previous press release dated 11 June 2025 titled "The Importance of Protecting Legal Professional Privilege and the Right to Representation",[2] the right to counsel and legal professional privilege is the cornerstone of a fair and just legal system, ensuring that individuals can seek and receive confidential legal advice without fear of reprisal or breach of confidentiality.

The Malaysian Bar condemns in the strongest terms the recent actions of the MACC, which are in direct violation of section 46 of the Malaysian Anti-Corruption Commission Act 2009 ("MACC Act"), which provides the following:

> *"Advocates and solicitors may be required to disclose information*
>
> *46. (1) Notwithstanding any other written law, a Judge of the High Court may, on application being made to him in relation to an investigation into any offence under this Act, order an advocate and solicitor to disclose information available to him in respect of any transaction or dealing relating to any property which is liable to seizure under this Act.*
>
> *(2) Nothing in subsection (1) shall require an advocate and solicitor to comply with any order under that subsection to the extent that such compliance would disclose any privileged information or communication which came to his knowledge for the purpose of any pending proceedings."*

Section 46 of the MACC Act serves as a statutory firewall, safeguarding the confidentiality of legal advice that is fundamental to the proper administration of justice. It clearly sets out that enforcement officers must not compel the production of privileged material, inspect or read any documents once privilege is asserted, or proceed without first obtaining a determination from the High Court where the existence of privilege is disputed. Privilege cannot be treated as overridden merely because an investigation is underway. Any attempt to circumvent these protections is inconsistent with the clear intent of Parliament, and undermines the rule of law.

Legal professional privilege allows clients to speak openly with their lawyers and to disclose sensitive information in confidence, so that proper legal advice can be given. If privilege is eroded, public confidence in the justice system and the legal profession would inevitably deteriorate. The fact that a request comes from an enforcement authority does not dilute or change the nature of privilege. This principle was firmly affirmed by the Federal Court in *Tan Chong Kean v Yeoh Tai Chuan & Anor*.[3]

In the light of the clear statutory protections under section 46 of the MACC Act and the unequivocal stance of the courts, privileged documents and communications must remain beyond the reach of enforcement agencies, including the MACC, unless expressly authorised by the client or pursuant to a specific order from the High Court.

These concerns are not new. Over the past decade, the Malaysian Bar has consistently emphasised the importance of protecting privileged material, in its official circulars. Circulars Number 096/2018[4] and 250/2019[5] addressed declaratory relief sought in

response to demands by the Inland Revenue Board (Lembaga Hasil Dalam Negeri Malaysia) for client account information. Subsequent circulars, including Circulars Number 156/2021[6] and 073/2023,[7] reflected the Bar's position, held by the High Court and affirmed by the Court of Appeal and Federal Court, in *Director General of Inland Revenue v Malaysian Bar*. Circular No 145/2024[8] clarified that while routine office-account information may be provided to tax authorities, client-account records remain firmly protected by legal professional privilege.

The more recent circulars — Circulars Number 209/2024[9] and 253/2024[10] — provided guidance on what to do in the event of investigations conducted by enforcement agencies, the protection of privileged materials, and procedures during dawn raids or when enforcement officers attend law firms. Taken together, these measures underscore our long-standing, consistent position: client communications and documents are sacrosanct and cannot be accessed without proper authorisation, and any violation of these principles threatens both the rule of law and the integrity of the legal profession.

The Malaysian Bar stands ready to support or initiate appropriate legal action to uphold the rule of law, safeguard the integrity of legal representation, and defend the fundamental right to confidential legal advice. Legal professional privilege is not a convenience — it is essential to an effective justice system. The Malaysian Bar remains resolute in defending that principle.

1 "Lawyers for Liberty questions MACC's notice to summon Albert Tei's lawyer for interrogation", *The Star*, 30 November 2025.

2 "Press Release | The Importance of Protecting Legal Professional Privilege and the Right to Representation", Malaysian Bar website, 11 June 2024.

3 [2018] 2 MLJ 669.

4 "Circular No 096/2018 | Update | Application for Declaratory Relief with regard to Legal Professional Privilege: Malaysian Bar v Director General of Inland Revenue (6 Apr 2018)", Malaysian Bar website, 6 April 2018.

5 "Circular No 250/2019 | Update | Application for Declaratory Relief with Regard to Legal Professional Privilege: Malaysian Bar v Director General of Inland Revenue (19 Nov 2019)", Malaysian Bar website, 19 November 2019.

6 "Circular No 156/2021 | Update | Legal Professional Privilege: Director General of Inland Revenue v Malaysian Bar", Malaysian Bar website, 6 May 2021.

7 "Circular No 073/2023 | Update (13 Mar 2023) | Legal Professional Privilege: Director General of Inland Revenue v Malaysian Bar", Malaysian Bar website, 13 March 2023.

8 "Circular No 145/2024 | Notices to Produce Documents and Records (Issued by the Tax Authorities)", Malaysian Bar website, 17 May 2024.

9 "Circular No 209/2024 | Investigations Conducted by Enforcement Agencies and Legal Professional Privilege", Malaysian Bar website, 17 July 2024.

10 "Circular No 253/2024 | Webinar on Dawn Raid | Practical Aspects on How Law Firms Can Manage Dawn Raids", Malaysian Bar website, 21 August 2024.

Malaysian Bar Congratulates the Newly Appointed Chief Judge of Malaya and Other Apex Court Judges

3 December 2025

The Malaysian Bar extends its heartfelt congratulations to the newly appointed Chief Judge of Malaya ("CJM"), YAA Dato' Hashim bin Hamzah, and to all the judges elevated to the Apex Courts in the latest round of judicial appointments. We recognise and commend the elevation of these distinguished members of the Judiciary for their willingness to assume the great responsibility inherent in their new offices.

The appointment of YAA Dato' Hashim bin Hamzah as CJM, along with the fresh appointments to the Apex Courts, comes at a critical moment for Malaysia's justice system. The Malaysian Bar emphasises that, with these new appointments, the Judiciary continues to carry the responsibility of strengthening public confidence in the rule of law, judicial independence and the fair administration of justice.

The Malaysian Bar looks forward to continuing to engage constructively with the Judiciary and other stakeholders to support a robust, independent and respected judicial system in Malaysia.

The Malaysian Bar Demands an Immediate, Independent Investigation into the Disturbing Police Shooting and Leaked Recording

4 December 2025

The Malaysian Bar expresses its deep concern over the reports surrounding the recent police shooting in Durian Tunggal, where three young men, M Puspanathan, 21, T Poovaneswaran, 24, and G Logeswaran, 29, were killed during a police operation. A purported audio recording of an unfinished telephone call[1] has since circulated publicly. According to media reports, a forensic examination commissioned by the families' lawyers suggests that the circumstances may differ significantly from the account initially provided by the authorities. Although the full facts remain unverified and the authenticity and context of the recording must be established by the relevant agencies, the seriousness of the allegations demands immediate and independent scrutiny.

When lives are lost at the hands of the state, the law requires nothing less than absolute transparency. Any incident involving the use of lethal force must be examined without delay and without influence. The existence of conflicting narratives in this case is troubling, and Malaysians are entitled to a clear and authoritative account. All evidence must be preserved, including any bodycam or dashcam recordings, firearm discharge reports, communication logs and forensic material. The loss, withholding or destruction of such evidence would be indefensible and would severely undermine public confidence in law enforcement.

Malaysia has witnessed too many cases where early explanations have later been contradicted under judicial scrutiny. These instances have contributed to a persistent trust deficit that cannot be ignored. Recalling these cases is not to prejudge the current matter, but to demonstrate why transparency is not a courtesy but a necessity. When the flow of information is incomplete or inconsistent, speculation grows, and faith in institutions weakens. The rule of law cannot function in such an environment.

The Malaysian Bar also emphasises that officers involved in the incident should be placed on administrative leave while investigations are carried out. Such a measure does not imply guilt. It reflects a policing system that understands the gravity of taking a life and the need to uphold public confidence at every stage.

Malaysia should ensure that its policing practices align fully with internationally recognised standards, including the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials[2]. These principles make clear that lethal force must be a last resort, must be necessary and proportionate, and must be subject to independent review. These safeguards are meaningful only when they are embodied in practice, not merely in aspiration.

The families of the deceased deserve the truth, and the public deserves assurance that deaths involving state authority are not shrouded in uncertainty. A society that expects its citizens to trust law enforcement must demonstrate that it will hold every exercise of state power to the highest possible standard. Trust is not automatic. It is earned, and it is easily lost.

The Malaysian Bar urges the authorities to act with urgency, preserve all evidence, and ensure that an independent inquest is convened without delay. Only a transparent process anchored firmly in the rule of law can restore public confidence. The credibility of our institutions, and the safety and trust of the community, depend on it.

1 "'One…two…three, gunshots': Chilling audio clip of unfinished phone call during police op points to trio's cold-blooded murder", *MalaysiaNow*, 3 December 2025.

2 Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

Malaysian Bar Welcomes the Passing of the Anti-Bully Bill 2025: A Major Step in Protecting Children and Strengthening Justice

5 December 2025

The Malaysian Bar commends the Government of Malaysia for the passage of the Anti-bully Bill 2025 in the Dewan Rakyat (House of Representatives), a landmark development that establishes in Malaysia, a legal definition of bullying, and creates a dedicated civil tribunal to hear related complaints.[1] This progressive legislation signals a decisive, overdue commitment to safeguarding children and to ensuring safer and more respectful environments in schools and institutions across the nation.

By empowering the Tribunal for Anti-bully to address complaints and award compensation of up to RM250,000, the passed Bill provides victims with meaningful access to justice while sending a strong deterrent message. The inclusion of rehabilitative elements, such as counselling or parenting support orders for guardians of offenders, reflects a restorative approach aligned with contemporary principles of justice, reform and accountability.

The Malaysian Bar also welcomes the Government's expressed intention to study the possibility of extending the scope of the Bill in 2026 to include individuals aged 18 and above, particularly those in higher education settings. Bullying is not contained by age, and harassment, intimidation, and coercive behaviour continue to manifest in universities, workplaces, and communities. The proactive consideration of broader coverage demonstrates foresight and recognises that dignity, safety and respect must be the core values of every Malaysian.

As this legislation moves to the implementation stage, we emphasise the importance of ensuring that the Tribunal for Anti-bully and the associated enforcement mechanisms operate with transparency, sensitivity and professional expertise. The Malaysian Bar congratulates civil society advocates who championed this cause and stands ready to support the effective and rights-focused implementation of the law. Together, we can ensure that every child and youth in Malaysia is afforded the dignity, safety and respect they deserve.

1 "Malaysia passes historic Anti-Bullying Bill 2025 to protect children, set up tribunal", *Malay Mail*, 3 December 2025.

Celebrating International Animal Rights Day in Conjunction with Human Rights Day

10 December 2025

10 December is widely recognised as Human Rights Day, the day in 1948 when the Universal Declaration of Human Rights ("UDHR") was adopted, marking a significant milestone in the recognition of fundamental human rights for all. But a lesser-known fact is that 10 December is also observed as International Animal Rights Day.

On this day, activists highlight that the same principles of dignity, freedom and protection from cruelty that apply to humans should also apply to animals. International Animal Rights Day was established in 1998 by the animal rights group, Uncaged, which intentionally chose this date to align with Human Rights Day, to draw attention to the suffering of animals and call for universal compassion across species.[1]

In April this year, the Malaysian Bar took a historic step by establishing the Animal Rights Committee. This committee was formed to address the growing need to strengthen legal frameworks and policy advocacy, as well as heighten public awareness of the importance of humane treatment of animals in Malaysia. Its mandate includes examining gaps in existing laws, proposing reforms, and developing strategies to better uphold the rights and welfare of animals in this country.

While Malaysia has made some progress in animal protection, much work remains. Reports of abuse, neglect, illegal wildlife trafficking and weak enforcement continue to surface. These issues remind us that a just society is measured not only by how it treats its people, but also by how it treats its animals, who cannot speak or defend themselves.

The law is in place to assist the vulnerable, and extend its protective shield over all beings, human or animal, whose welfare depends on our collective conscience and action. This principle guides the Malaysian Bar in its commitment to ensuring that our legal system evolves to offer meaningful protection to animals also, recognising them as sentient beings deserving of care and respect.

The Malaysian Bar urges all stakeholders, government agencies, lawmakers, civil society organisations, and members of the public to work collaboratively in strengthening legal standards, improving enforcement mechanisms, and fostering a culture of compassion and responsibility. We further call for continuous review and enhancement of legislation, including the Animal Welfare Act 2015 and wildlife protection laws, to ensure the legislation meets present realities and international best practices.

On this important day, we honour not only the universal principles of human rights, but also the intrinsic value of all living beings. The Malaysian Bar stands firm in its belief that advancing animal rights is essential to building a humane, ethical and progressive nation.

1 International Animal Rights Day, World Animal Protection website.

Malaysian Bar Pays Tribute to the Late Bar Council Member, Ravi Chandran Subash Chandran

11 December 2025

The Malaysian Bar is deeply saddened to learn of the passing of our respected Bar Council member, Ravi Chandran Subash Chandran ("Ravi Chandran"), yesterday at approximately 2:00 pm.

Ravi Chandran served the legal profession with unwavering integrity, humility, and an uncompromising dedication to justice. He was admitted as an advocate and solicitor of the High Court of Malaya in 2003, and was the sole proprietor of SC Ravi & Associates. He served the Malaysian Bar with distinction and leadership, and contributed immensely to the profession through his many leadership roles, including the following:

(1) Sitting Council member and served on the Bar Council since 2021.
(2) Chairman of the Penang Bar Committee from 2021 to 2023, and Penang Bar Representative on the Bar Council from 2023 to 2025.
(3) Chairperson of the Bar Council Legal Aid Centre (Penang) from 2015 to 2021.
(4) He served Bar Council committees in various other capacities:

(a) Criminal Law Committee
- Co-Chairperson: 2024/2025, 2025/2026
- Deputy Chairperson: 2023/2024

(b) National Legal Aid Committee
- Co-Deputy Chairperson: 2020/2021, 2021/2022

(c) National Legal Aid & YBGK Committee
- Co-Chairperson: 2024/2025, 2025/2026
- Co-Deputy Chairperson: 2022/2023

(d) Professional Indemnity Committee
- Co-Chairperson: 2024/2025, 2025/2026

(e) Ad Hoc Committee on Prison Reforms
- Co-Chairperson: 2025/2026

During my tenure as President of the Malaysian Bar, I trusted him to helm several committees, knowing that he would put his heart, energy, and full commitment into ensuring their success. He never once failed in that trust; instead, he consistently performed above expectations. I also sought his advice and wisdom from time to time, particularly on matters concerning developments in the country. His counsel was always thoughtful, measured and grounded in a deep understanding of justice and human dignity.

In 2021, Ravi Chandran was awarded an honorary certificate as a Legal Aid Champion in conjunction with the 40th anniversary of legal aid services by lawyers in Malaysia. This internal recognition, initiated by the Bar Council National Legal Aid Committee, is a reflection of his extraordinary dedication to advancing legal aid and access to justice long before he assumed leadership roles in the Bar Council.

Ravi Chandran's efforts significantly strengthened the Malaysian Bar's work in legal aid, criminal justice reform, and in expanding access to justice for marginalised communities. His work ethic, leadership and empathy have left an indelible mark on the Malaysian Bar and the communities we serve.

Members should take inspiration from the breadth of his contributions, his selfless service and his steadfast belief that the law is a tool for the improvement of society. His legacy exemplifies what it means to serve the profession beyond oneself.

The Malaysian Bar will greatly miss his wisdom, his voice and his presence at the table, knowing that the work he did played a pivotal role in continuing to shape the future of access to justice in Malaysia.

The Malaysian Bar extends its heartfelt condolences to his family, colleagues and loved ones during this difficult time. May they find strength and peace in the legacy he leaves behind.

Malaysia's Sovereignty is Upheld with the Resolution of the Sulu Claim

11 December 2025

The Malaysian Bar welcomes the decision of the Paris Court of Appeal ("Paris Court"), which has fully annulled the purported "Final Award" of USD$14.9 billion in favour of the so-called heirs of the defunct Sultanate of Sulu. In its judgment, the Paris Court found that the arbitrator lacked jurisdiction to issue the award, as there was no valid arbitration agreement binding Malaysia to it. The Paris Court thereby ordered the claimants to pay Malaysia's legal costs.[1]

This ruling represents a landmark affirmation of our national sovereignty. The dispute stemmed from a colonial-era agreement whose interpretation the claimants sought to leverage on to impose massive financial and territorial claims against Malaysia. The annulment of the award reaffirms that sovereign rights cannot be subverted through extraterritorial arbitration that lacks proper legal foundation. With this ruling, the Paris Court has upheld the principle that the integrity of a sovereign State cannot be subjected to unauthorised private litigation or speculative claims by foreign-based parties.[2]

The Malaysian Bar commends the Government of Malaysia, and in particular the dedicated efforts of the relevant agencies, including the War Room of the Special Secretariat on the Sulu Case, for their steadfast defence of the nation's interests and sovereignty. We also recognise the vital role played by the Attorney General's Chambers, the Legal Affairs Division of the Prime Minister's Department, and all other government agencies, in bringing this matter to a conclusive and just end.[3]

This outcome not only protects Malaysia's territorial integrity and national dignity, but also sets an important precedent against abusive and baseless claims over state sovereignty. The Malaysian Bar thanks the Government and the civil servants, lawyers, and institutions involved for their unwavering commitment to upholding the rule of law and defending the nation's sovereignty.

1 "Sulu Case: Paris Court Decision a Major Victory for Malaysia – Azalina", *Bernama*, 10 December 2025.

2 "Sulu case is now history, claimants owe Malaysia nearly RM1mil", *The Star*, 11 December 2025.

3 "Malaysia wins again as French court junks Sulu claimants' US$14.9b award, govt says this ends 'extortion' bid", *Malay Mail*, 10 December 2025.

Malaysian Bar Supports Tabling of International Settlement Agreements Resulting from Mediation Bill 2025

12 December 2025

The Malaysian Bar welcomes the tabling of the International Settlement Agreements Resulting from Mediation Bill 2025 for its first reading in Parliament.[1]

This marks a significant and progressive step towards strengthening Malaysia's commitment to mediation as a cornerstone of our dispute resolution framework.

The Malaysian Bar firmly supports the promotion and development of mediation, both domestically and internationally. Mediation offers an effective, efficient and amicable path for resolving disputes of any scale — fostering understanding, preserving relationships and reducing the burden on courts. Paid mediation, in particular, offers a practical and sustainable way forward, demonstrating that structured and professional mediation can build a harmonious and progressive society where disputes are resolved constructively rather than contentiously.

Through the Malaysian International Mediation Centre ("MIMC"), the Malaysian Bar stands ready to extend cooperation and technical support towards the creation and continuous strengthening of Malaysia's mediation ecosystem, in line with global best practices and the objectives of the Singapore Convention on Mediation (formally known as the United Nations Convention on International Settlement Agreements Resulting from Mediation).

The Malaysian Bar encourages continued governmental and public support for mediation as a constructive alternative to adversarial dispute resolution. Together, we can advance a culture of dialogue and collaboration in the Malaysian legal framework.

1 "International Settlement Agreements Resulting From Mediation Bill Tabled In Dewan Rakyat", *Bernama*, 3 December 2025.

International Migrants Day 2025: "My Great Story: Cultures and Development"

18 December 2025

The Malaysian Bar marks International Migrants Day 2025 by reaffirming its long-standing commitment to the protection of migrants and to ensuring that all migrants in Malaysia are treated with dignity and afforded their fundamental rights.

On this occasion, the Malaysian Bar joins the global community in recognising the invaluable contributions of migrants to our cities, economy and society. The theme for this year — "My Great Story: Cultures and Development"[1] — highlights how human mobility drives growth, enriches societies and helps communities connect, adapt and support one another.

Malaysia's economy is heavily reliant on foreign labour, particularly in key sectors such as manufacturing, construction and services. As at 30 September 2024, there were approximately 2.4 million active foreign workers in the country,[2] making up around 14.6 per cent of the total workforce.[3] Therefore, it is undeniable that migrants play a vital role in driving economic growth and social development, contributing as workers and students, while bringing valuable skills, experience and knowledge to the nation.

Despite their contributions, many migrants face challenges, including limited access to justice, social protections, fair employment and opportunities to fully participate in society. These challenges are further compounded by language barriers, legal complexity and limited awareness of their rights.

In recognising the indispensable role that migrant workers play in Malaysia's socio-economic fabric, the Malaysian Bar therefore calls on the Government of Malaysia to take the crucial step of signing and ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families ("ICMW"),[4] a comprehensive human rights instrument that sets global standards for the protection of migrant workers throughout the migration cycle, ie from recruitment and entry to work, family life and return.

The ICMW goes beyond regulating employment conditions alone; it enshrines fundamental rights against discrimination, arbitrary arrests and exploitation, and obliges States to ensure equal treatment with nationals in respect of remuneration and working conditions. By ratifying the Convention, Malaysia would not only affirm its commitment to human rights, but also provide a clear legal framework to strengthen the protection of migrant workers, including ensuring access to justice, fair wages, social protections and safeguards against violence and abuse.

A detailed analysis conducted by the Human Rights Commission of Malaysia (Suruhanjaya Hak Asasi Manusia Malaysia, "SUHAKAM") titled "Project to Study and Analyse the Compatibility of Malaysian Laws with the International Convention on the Protection of the Rights of All Migrant Workers and

Members of Their Families (ICMW)",[5] highlights specific areas where Malaysian law diverges from the standards set by the Convention. Findings from the study note that the Convention incorporates protections derived from core international human rights standards, expanding non-discrimination clauses and articulating clear obligations on States to guarantee the human rights of migrant workers and their families. To echo the final lines of the report:

> *"ICMW if acceded by Malaysia, will assist to enhance the rights/protection in a wider aspect."*

In this spirit, the Malaysian Bar urges the Government to adopt a forward-looking approach that centres on human dignity, equality and justice. Ratification of the ICMW would be a landmark affirmation of Malaysia's commitment to upholding the rights of all who live and work within its borders, ensuring that migrant workers are not only acknowledged for their contributions but also protected under the law.

In closing, the Malaysian Bar records its appreciation to Tuan Steven Sim Chee Keong for the continued engagement and support during his tenure as Minister of Human Resources. We also congratulate Dato' Sri Ramanan Ramakrishnan, the newly appointed Minister,[6] and we look forward to working constructively with him and the relevant Government authorities in providing meaningful input to advance the rights and protections of migrant workers in Malaysia.

1 International Migrants Day, United Nations website.

2 "Over 2.4 million foreign workers in the country as of Sept, Parliament hears", *The Star*, 5 December 2024.

3 "Understanding Malaysia's Foreign Worker Policies: A Guide for Foreign Investors", Ayman Falak Medina, ASEAN Briefing from Dezan Shira & Associates, 26 March 2025.

4 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, The Office of the High Commissioner for Human Rights ("OHCHR"), United Nations website.

5 "Project to Study and Analyse the Compatibility of Malaysian Laws with the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW)", Associate Professor Dr Salawati Mat Basir, Dr Saidatul Nadia binti Abd Aziz, Associate Professor Dr Haniff Ahamat, SUHAKAM, 2022.

6 "Cabinet Reshuffle: Cabinet Members Committed to Do Their Utmost in Fulfilling Their Mandate", *Bernama*, 16 December 2025.

Malaysian Bar Condemns Online Death Threats against Lawyer and Calls for Urgent and Transparent Action

19 December 2025

The Malaysian Bar expresses its deep concern and unequivocal condemnation of the reported online death threats directed at a fellow member of the legal profession, who is representing the families of three men fatally shot in Melaka. According to news reports, the lawyer lodged a police report on 5 December 2025 after receiving threats on a social media platform, and the case is currently being investigated under the relevant provisions of the Penal Code and the Communications and Multimedia Act 1998, with law enforcement authorities seeking the assistance of the Malaysian Communications and Multimedia Commission ("MCMC") to identify the individual allegedly responsible for the threatening content.[1]

Lawyers, by virtue of their role in upholding the rule of law and ensuring access to justice, must be able to perform their professional duties without fear of intimidation, harassment or threats to their personal safety. Threatening a legal practitioner for fulfilling his/her professional obligations strikes at the very heart of the administration of justice. It has a chilling effect that undermines public confidence in the legal system. Thus, it is necessary to protect the legal profession and its members, as well as the public, from dangerous and sinister conduct.

We acknowledge the efforts of the Royal Malaysia Police and the MCMC in progressing the investigation, including recording statements and seeking technical assistance to trace the source of the threats.[2] The Malaysian Bar urges all relevant authorities to ensure that this matter is handled expeditiously, thoroughly and with full transparency, in accordance with the rule of law and due process. We also call for all members of the public to refrain from engaging in or endorsing threatening or abusive conduct against lawyers, judges, court staff or any other participants in the justice system.

In confronting the growing misuse of digital platforms to disseminate unlawful and harmful content, it is vital that legal safeguards are effectively enforced so that

accountability is upheld and that those responsible for criminal conduct are brought to justice. The Malaysian Bar stands ready to support efforts that protect the safety and independence of legal professionals and to work collaboratively with authorities and stakeholders in promoting an environment that is safe, respectful and conducive to the proper functioning of the justice system.

1 "Cops awaiting MCMC report to identify person behind lawyer death threat", *Free Malaysia Today*, 19 December 2025.

2 "Police await MCMC report on lawyer death threats", *New Straits Times*, 15 December 2025.

Malaysian Bar Receives Memorandum from Orang Asli Organisations and Calls for Meaningful Consultation on Proposed Amendments to the Orang Asli Act 1954

23 December 2025

On 19 December 2025, the Malaysian Bar welcomed a delegation comprising 18 organisations representing the Orang Asli community and Orang Asli-related civil society organisations. The delegation comprised the following:

(1) Jaringan Kampung Orang Asli Semenanjung Malaysia ("JKOASM")
(2) Persatuan Suku Jakun Pahang ("PSJP")
(3) Apa Kata Wanita Orang Asli ("AKWOA")
(4) Jaringan Orang Asal SeMalaysia ("JOAS")
(5) Jaringan Kampung Orang Asli Negeri Sembilan
(6) Pusat KOMAS
(7) Persatuan Penduduk Kampung Ayer Denak ("PPKAD")
(8) Komuniti Jaringan Temiar Pos Kuala Mu, Perak
(9) Pertubuhan Wanita Orang Asal Malaysia ("PWOAM")
(10) Jaringan Kampung Orang Asli Kelantan ("JKOAK")
(11) Persatuan Orang Asli Semenanjung Malaysia ("POASM")
(12) Pertubuhan Kebajikan Komuniti Jahut/Jahet Pahang ("PKKJP")
(13) Persatuan Kebajikan dan Adat Orang Asli Semai Perak
(14) Centre for Orang Asli Concerns ("COAC")
(15) Jaringan Batin Ulu Perak
(16) Jaringan Kampungan Orang Asli Johor ("JPOAJ")
(17) Jaringan Kampungan Orang Asli Pengkalan Daun
(18) Majlis Belia Orang Asli Malaysia ("MBOAM")

The delegation presented to the Malaysian Bar a memorandum titled "Cadangan Pindaan Akta Orang Asli 1954 (Akta 134) dari Masyarakat & NGO2 Orang Asli".

Through the memorandum, the delegation voiced serious concerns regarding the proposed amendments to the Orang Asli Act 1954 (Act 134), in particular that the above-listed Orang Asli groups and organisations were not afforded a genuine opportunity to be consulted, to express their views or to provide feedback on amendments that directly and profoundly affect their rights, livelihood, land, culture and future. The Malaysian Bar notes that these concerns go to the heart of participatory governance, the rule of law and respect for the rights of indigenous peoples.

The Malaysian Bar reiterates that meaningful consultation is not merely a formality, but an essential component of lawful, fair and legitimate decision-making, especially where legislative reforms impact vulnerable and marginalised communities. In this regard, the Malaysian Bar emphasises the well-established Gunning Principles, which set out the minimum standards for a lawful and proper consultation process:

(1) The proposals must still be at a formative stage. Consultation is only meaningful where decisions have not already been made or predetermined by decision-makers. Stakeholders must be able to influence outcomes, not merely react to decisions that are already final;
(2) Sufficient information must be provided to enable intelligent consideration and response. The information shared must be relevant to the proposed amendments, accessible and presented in a manner that is clear and easily understood, so that consultees are able to give informed and considered feedback;
(3) Adequate time must be given for consideration and response. While there is no rigid or

universally applicable time frame, consultees must be afforded sufficient opportunity to engage meaningfully with the proposals. The length of the consultation period should correspond with the complexity of the issues and the extent of their impact, particularly where fundamental rights and long-term consequences are involved; and

(4) Consultation responses must be given conscientious consideration before any decision is made. Decision-makers must genuinely take into account the views expressed, and should be able to demonstrate that those views were considered as part of the decision-making process.

The Malaysian Bar stresses that any reform to the Orang Asli Act 1954 must be undertaken with the full and effective participation of the Orang Asli community itself, in line with constitutional values, international human rights standards and the principle that the party(ies) most affected by a law must have a meaningful voice in shaping it.

The Malaysian Bar further affirms that its Bar Council Committee on Orang Asli Rights stands ready to engage constructively with the Government and relevant stakeholders, and is willing to assist in facilitating a proper, inclusive and transparent consultation process. Such engagement is crucial to ensuring that any amendments to the law truly protect and advance the rights, dignity and well-being of the Orang Asli community in Malaysia.

Strengthening Families Through Reform and Responsible Legal Practice

26 December 2025

The Malaysian Bar takes serious note of the latest marriage, divorce and reconciliation statistics released by the Department of Statistics Malaysia. While marriages recorded only a slight increase of 0.9 per cent in 2024, divorces rose by 4.1 per cent, and reconciliation cases continued to decline.[1] These patterns point to pressures within Malaysian families, which require thoughtful attention and sustained policy intervention.

A rising divorce rate signals more than marital breakdown: it affects the children caught in the crossfire of domestic upheavals, schooling outcomes, mental health of the people concerned, community stability, and the overall social fabric. When the family structure disintegrates, the long-term cost is borne by society; and most often, it is the children who bear the deepest hurt, facing disruptions in routine and emotional insecurity, and living through fractured parental relationships. The justice system is also affected, as the courts are also required to manage heavier demands at a time when judicial resources are already stretched.

The legal profession does not view the growth of family disputes as increased commercial opportunity. Rather, the Malaysian Bar reiterates that lawyers carry a duty to help minimise conflict, uphold fairness and guide clients towards outcomes that protect children and preserve dignity. Our responsibility is to play a constructive role in restoring balance in the family unit and supporting families during difficult transitions.

The time has come to strengthen the structures that support marriage, guide couples during breakdowns and protect children from the fallout of conflict. Institutional reforms are needed, and in the light of the troubling statistics, the Malaysian Bar proposes the following:

(1) **Make mediation a mandatory first pathway:** Family mediation should be the default process before litigation begins, except where safety or abuse issues are present. Early resolution reduces emotional and financial strain and promotes more stable arrangements for children.

(2) **Introduce a collaborative family practice framework:** Malaysia should adopt a structured, non-adversarial model similar to practices in other Commonwealth jurisdictions, such as Australia, Canada, Hong Kong and the United Kingdom, where parties commit to resolving matters without court battles. This reduces hostility, promotes transparency and improves long-term family outcomes.

(3) **Establish family support units within the courts:** Family courts should be equipped with counsellors, psychologists, social workers and

mediators who can assist parties before and during proceedings. Early intervention can stabilise relationships, assist in reconciliation where possible, and support co-parenting where separation is inevitable.

(4) **Strengthen pre-marriage and marriage support modules:** Pre-marriage programmes should include modern-day essentials such as:

- conflict resolution;
- emotional resilience;
- financial planning;
- communication skills; and
- managing expectations.

These modules should be standardised across civil and religious institutions.

(5) **Centre court processes on the welfare of children:** Improved child-focused measures are needed, including having:

- standardised parenting plans;
- compulsory co-parenting education;
- frameworks to address parental alienation;
- guidelines for access arrangements; and
- specialised training for lawyers managing child-related disputes.

(6) **Expand legal aid coverage for family matters:** Access to justice must not depend on income level. Expanded legal aid for family cases (in particular for alternative dispute resolution options) will support fair outcomes, reduce delays and ease courtroom burdens.

(7) **Advocate broader socioeconomic support:** Family cohesion is closely linked to cost-of-living pressures, childcare accessibility, mental health services and work-life balance. The Bar supports policies that strengthen the everyday realities of family life, not only its legal framework.

The Malaysian Bar encourages lawyers to adopt a constructive and therapeutic approach when assisting families in crisis. Lawyers should strive to minimise hostility, guide clients realistically and prioritise the long-term welfare of their children. Conflict-driven solutions may deliver short-term advantage, but they damage families and erode confidence in the profession.

Our responsibility is clear — we must help families navigate hardship with fairness, perceptiveness and respect for the consequences that follow them long after a case file is closed.
The latest statistics highlight the need for a more resilient and supportive family justice ecosystem. The Malaysian Bar remains committed to working with the Judiciary, Government, religious authorities and civil society to strengthen the institutional frameworks that protect families. Reforms that prioritise stability, fairness and the well-being of children are essential if Malaysia is to develop a more cohesive society.

The Malaysian Bar will continue to advocate improvements that place the family at the centre of policy development and uphold the principles of justice and responsibility within the family law system.

1 Marriages, Divorces and Rujuk Statistics, Malaysia, 2025, Department of Statistics Malaysia.

The Rising Complexity of Financial Crime in Malaysia

5 January 2026

The Malaysian Bar takes note of the recent statement by Dato' Mohammad Faiz Azmi, Chairman of the Securities Commission Malaysia highlighting the increasing complexity of financial crime and reported losses amounting to RM54 billion.[1] This figure is striking, both in scale and implication, as it reflects harm suffered by tens of thousands of victims nationwide.

These losses represent not only serious financial damage but a deeper erosion of public trust, market integrity and confidence in regulatory and enforcement systems. Financial crime in Malaysia has evolved far beyond isolated acts of fraud. It is increasingly sophisticated, technology-driven and cross-border in nature, often structured to exploit gaps among regulatory frameworks, enforcement

agencies and jurisdictions. Many scams now operate through digital platforms, social media and messaging services, frequently involving phishing, identity theft and fraudulent investment schemes.

As highlighted in Bank Negara Malaysia's Annual Report 2024, the current financial crime landscape requires robust, intelligence-driven responses.[2] Preventive and detection measures have been strengthened, including enhanced authentication controls, national fraud reporting mechanisms and inter-institutional data sharing. These efforts have helped avert significant attempted losses and supported more efficient investigations by law enforcement authorities.

The Malaysian Bar agrees that stronger inter-agency coordination is essential. However, coordination alone is insufficient unless it is supported by clear accountability, effective information sharing and a legal framework capable of keeping pace with emerging threats. Enforcement strategies must be cohesive, adequately resourced and able to address both traditional and evolving forms of misconduct, including digital fraud, market manipulation, investment scams and complex money-laundering activities.

Complex financial crime cases demand specialised expertise at every stage, from investigation and prosecution to adjudication. Continuous training and capacity-building for investigators, prosecutors and judges are critical to ensure that cases are handled effectively, resolved within a reasonable time and capable of withstanding legal scrutiny.

Public awareness must also be strengthened. The high incidence of scams, coupled with under-reporting, suggests gaps in public confidence and uncertainty over available reporting and restitution pathways. Sustained public education efforts are necessary to reduce vulnerability, encourage timely reporting and strengthen deterrence.

The Malaysian Bar affirms its responsibility, as an independent statutory body, to speak where systemic risks undermine the rule of law, public confidence and access to justice. Financial crime on this scale cannot be addressed in silos or through fragmented responses. It requires a coherent legal framework, capable institutions and sustained commitment across the enforcement and justice ecosystem. The Malaysian Bar stands ready to engage constructively with regulators, enforcement agencies, policymakers and stakeholders to strengthen Malaysia's legal and institutional response to financial crime, in the public interest and in defence of the long-term integrity and credibility of the nation's financial system.

1 Speech at SC-LHDN MOU Signing Ceremony by Dato' Mohammad Faiz Azmi, Securities Commission Malaysia website, 19 December 2025.

2 Annual Report 2024, p 116, Bank Negara Malaysia website, 2025.

Third-Party Funding, Arbitral Integrity and Lessons from Recent International Arbitration Developments

13 January 2026

The Malaysian Bar recognises that third-party funding has become an established feature of modern international arbitration. When properly regulated, it can enhance access to justice, allow meritorious claims to be pursued despite financial constraints and strengthen confidence in arbitration as a credible and feasible dispute resolution mechanism.

The Parliament's enactment of the Arbitration (Amendment) Act 2024, which came into force on 1 January 2026, reflects a conscious policy choice to legitimise third-party funding in arbitration while embedding safeguards intended to preserve ethical standards, procedural fairness and the integrity of the arbitral process. The statutory abolition of the common law rule against maintenance and champerty for arbitration, coupled with mandatory disclosure obligations and the introduction of a code of practice for third-party funding, demonstrates a balanced approach that accepts funding as a reality but subjects it to transparency and oversight.

Recent international arbitration developments, including high-profile investor-state disputes, have prompted public debate on whether third-party funding encourages speculative or abusive claims. The Malaysian Bar is of the view that such cases do not establish that funding itself is unethical

or improper. Rather, they highlight the risks that arise where funding operates in an environment that lacks clear disclosure requirements, effective tribunal oversight or early scrutiny of jurisdictional and procedural issues.

Third-party funding does not create weak claims. It can, however, expand the scope of disputes and prolong proceedings if underlying jurisdictional or procedural weaknesses are not identified and addressed promptly. The ethical concern, therefore, lies not in the existence of funding, but in the absence of robust institutional checks to ensure independence of arbitral decision-making, manage conflicts of interest, and prevent undue influence over the conduct of proceedings.

The Malaysian framework addresses these concerns directly. Mandatory disclosure of the existence and identity of funders promotes transparency, allowing arbitrators to assess potential conflicts at an early stage. The code of practice provides a structured mechanism to regulate funder conduct, including issues of capital adequacy and control over proceedings. It does so while preserving flexibility for tribunals to respond proportionately through procedural directions, including orders for security for costs, adverse costs orders, or other appropriate procedural sanctions, in instances of non-compliance. The new framework also reinforces the principle that funders must not direct the conduct of the arbitration, including decisions on strategy, evidence or settlement, and that counsel's professional duties remain owed exclusively to the client and the tribunal.

The Malaysian Bar emphasises that arbitration derives its legitimacy from fairness, neutrality and respect for the rule of law. Third-party funding must operate within these boundaries. When used responsibly and regulated effectively, it supports access to justice and reinforces confidence in arbitration. However, when used without transparency or accountability, it risks undermining the very system it seeks to support.

The Malaysian Bar recognises that the effectiveness of this framework will ultimately depend on consistent enforcement, judicial support and principled application by arbitral tribunals. Ongoing vigilance by all stakeholders will therefore be essential to ensure that the objectives of transparency, fairness and integrity are realised in practice.

The Malaysian Bar, therefore, supports the new statutory framework governing third-party funding in arbitration and calls on all stakeholders, including counsel, funders, arbitrators and institutions, to uphold both the letter and the spirit of the law. Ethical funding, grounded in transparency and disciplined by oversight, is not a threat to arbitration. It is a tool that must be handled with care, integrity, and responsibility.

Bangunan Sultan Abdul Samad: A Call for Reinstatement as a Court

27 January 2026

The Malaysian Bar calls for serious consideration that Bangunan Sultan Abdul Samad be reinstated as a functioning court. The building carries historical weight that cannot be replicated elsewhere, and the return of judicial functions would serve the public interest by preserving heritage, strengthening institutional identity and reconnecting the public with the nation's legal history.

Bangunan Sultan Abdul Samad was built between 1894 and 1897.[1] It originally housed the British colonial administration. Following independence and constitutional development, the building took on a new chapter in national history. From around 1984 onwards, it became home to Malaysia's then-Supreme Court (later the Federal Court).[2] In 2003, the Federal Court was relocated to the Palace of Justice in Putrajaya.[3]

For members of the Judiciary and the legal profession who worked there, Bangunan Sultan Abdul Samad represents more than colonial architecture or old government space. It is where appellate practice matured, where foundational judgments were handed down, and where many lawyers built their careers. Its courtrooms, corridors and chambers remain part of the collective memory of the Malaysian legal system.

Returning judicial functions to Bangunan Sultan Abdul Samad after a long interval would carry real meaning. First, it would reconnect the justice system with a site that once stood at the centre of the nation's highest

courts. Second, it would strengthen civic symbolism. The courts are constitutional organs whose presence should reflect dignity and permanence. Situating them within a building that forms part of the national consciousness reinforces that symbolism. Third, it would ensure that heritage buildings continue to serve institutional purposes rather than becoming static showpieces without living function.

There are international examples that demonstrate the value of such an approach. In Hong Kong, the building that originally housed the Supreme Court later became the Legislative Council Building for several decades. It has since been reinstated as the permanent home of the Hong Kong Court of Final Appeal.[4] The move balanced heritage conservation, public symbolism and judicial function. It showed that historic buildings, when properly planned and adapted, can resume their judicial role in a contemporary context without compromising security or efficiency.

Malaysia can adopt a similar philosophy. Urban planning and development must take heritage, identity and institutional continuity into account. Modern facilities are necessary, but they should not erase the physical anchors of our constitutional history. Many jurisdictions around the world preserve historic court buildings as active centres of justice, not static monuments.

The Malaysian Bar, therefore, urges the relevant authorities to undertake a structured feasibility review of reinstating court functions at Bangunan Sultan Abdul Samad. Such a review should include structural assessment, security requirements, accessibility, heritage conservation considerations and long-term maintenance planning.

Reinstating the Judiciary in Bangunan Sultan Abdul Samad would not be an exercise in nostalgia. It would acknowledge the continuity of our legal institutions, the dignity of the courts and the history that underpins Malaysia's constitutional development. It would demonstrate that heritage buildings can continue to serve the nation in meaningful and enduring ways.

1 Heritage Series – Bangunan Sultan Abdul Samad (BSAS). Roam This Way, retrieved 27 January 2026.

2 History of Kuala Lumpur Court, official portal of the State Court of Kuala Lumpur, retrieved 27 January 2026.

3 *Supra* note 1.

4 The Court of Final Appeal Building, Hong Kong Court of Final Appeal, retrieved 26 January 2026.

Housing Systems Must Not Bypass Legal Protection for Purchasers

10 February 2026

The Malaysian Bar notes the ongoing use and expansion of the Housing Information or Housing Integrated Management System ("HIMS") under the Ministry of Housing and Local Government (Kementerian Perumahan dan Kerajaan Tempatan, "KPKT"). The system simplifies the application, allocation and monitoring of affordable housing. We welcome the digitalisation of public administration, as it offers benefits in terms of transparency, efficiency and data integrity.

However, it is essential to recognise what HIMS is, and what it is not. HIMS is an administrative system for eligibility, balloting and allocation. It does not govern and cannot replace the legal stages of a housing transaction. Once a buyer is allocated a unit, the process becomes contractual, statutory and financial. At that point, the rights and liabilities of purchasers and developers are governed by written law, including the Housing Development (Control and Licensing) Act 1966, the standard statutory sale and purchase agreements, the National Land Code, and related regulations.

It is the view of the Malaysian Bar that the legal dimension of housing purchase has not been factored into the design or public communication of HIMS. This is important to note, as the Government itself recognised decades ago that housing purchasers are vulnerable and require legal protection. It is this recognition that led to the introduction of the mandatory statutory Sale and Purchase Agreement, defect liability regimes, liquidated damages and the Tribunal for Homebuyer Claims. It would be consistent with that same policy logic to ensure that modern digital housing platforms do not leave the legal layer unaddressed.

Without addressing these gaps in HIMS, there is a real risk that buying a home may be presented as a simple administrative process. If that perception takes root, developers or system operators may downplay the need for legal advice or treat lawyers as an inconvenience. This would put the public at risk.

Under section 37 of the Legal Profession Act 1976 ("LPA"), legal advice on rights and liabilities may only be given by an advocate and solicitor. Clerks, sales agents, staff of property developers and public officers cannot lawfully advise purchasers on their legal rights or obligations arising from a sale and purchase agreement or any housing legislation. HIMS does not provide legal advice and was never designed for that role. If the public enters the contractual stage without legal advice, they will be exposed to significant risks, including defective contracts, unenforced rights, disputes over defects, delays and financial loss.

The Malaysian Bar therefore urges that:

(1) public housing digital systems acknowledge the legal stage of the transaction, and purchasers are informed that legal rights and liabilities arise once they enter into a sale and purchase agreement;
(2) no government messaging should give the impression that legal advice is unnecessary;
(3) non-lawyers refrain from giving legal advice to purchasers, in compliance with section 37 of the LPA;
(4) KPKT consider incorporating a neutral advisory notice within HIMS explaining when legal advice is needed and why, without referring to any specific firm or practitioner; and
(5) any future housing policy or digitalisation effort include the legal community as a stakeholder, in the same way that the Government historically designed consumer protection features for homebuyers.

The Malaysian Bar stresses that this is not a question of professional jurisdiction but one of consumer protection, legal compliance and respect for statutory safeguards that were built to protect ordinary Malaysians in one of the most expensive and consequential purchases of their lives.

The public and the Bar should hold the following principles dear and never compromised:

(1) Access to independent legal advice is a safeguard, not a luxury;
(2) Consumer protection in housing is grounded in law, not sales or administrative convenience;
(3) Non-lawyers must not give legal advice, whether inside a system office or a sales gallery;
(4) No digital system should erode statutory rights or diminish the importance of legal accountability; and
(5) The purchase of a home must remain a legally protected act, not merely an administrative or commercial transaction.

Digitalisation should improve public welfare, not hollow out the legal safeguards that protect the public. As Malaysia modernises its housing ecosystem, it must do so without compromising the rule of law, consumer protection and the right of citizens to enter contracts with full knowledge of their legal position.



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