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Resolution Adopted at the 79th Annual General Meeting of the Malaysian Bar
(Held on 15 March 2025)

Resolution on the Judiciary and Malaysian Bar

PREAMBLE

(1) **WHEREAS** the purpose of the Malaysian Bar under Section 42(a) is *"to uphold the cause of justice without regard to its own interests or that of its members, uninfluenced by fear or favour"*;

(2) **EXPRESSING** grave concerns with the statements made by Right Honourable Chief Justice of Malaysia, Tun Tengku Maimun binti Tuan Mat, in her Ladyship's speech at the Opening of Legal Year 2025, which indicates potential and/or improper interference in the judicial appointment process by persons outside the established statutory and constitutional framework. The relevant extracts of her Ladyship's speech are as follows:

"That said, what is clear from the constitutional provisions on the appointment of Judges read with the supplementing procedure in the JACA 2009 [Judicial Appointment Commission Act 2009] is this – no person other than the JAC [Judicial Appointment Commission] and the Prime Minister can recommend candidates for appointment to all posts in the Superior Courts.

Any form of circumvention of these provisions could render those appointments either unconstitutional or in breach of written law. For this reason, no person, whether it be the President of the Malaysian Bar, any advocate or solicitor, any political party, the Attorney General or any other person for that matter has any business recommending names to the Prime Minister for appointment.

For if this is done, not only has the Judiciary been trampled upon; its independence been transgressed and eroded; it is an attempt to interfere with the course of justice by influencing the operations of the Judiciary. And any name so considered on such improper advice runs the risk of being challenged via judicial review as being either unconstitutional or in breach of the law. Any person so found to have done this also runs the risk of being charged with an offence.

I have been an ardent and firm believer in the independence of the Judiciary including the appointment of its Judges. Hence, I have steadfastly observed all the principles espoused in the Constitution and the JACA 2009. If anyone has any reason to believe that we have not done this, then I would remind you that, as the law and procedure stand, the JAC again is only but one part of the appointments process and you should perhaps point the finger elsewhere." [emphasis added]

(3) **NOTING** the Chief Justice's explicit warning that any form of circumvention of the statutory and constitutional provisions on judicial appointments could render such appointments unconstitutional or in breach of written law;

(4) **ACKNOWLEDGING** that the Judiciary is enjoying a renaissance under the leadership of the Chief Justice, which has been recognised domestically and internationally;

(5) **RECOGNISING** that an independent judiciary is the cornerstone of a democratic society and in upholding the rule of law, and in the defence of public interest and human rights in Malaysia;

(6) **VIEWING** with grave concern a report by Channel News Asia on 21 Feb 2025 entitled *"Upcoming leadership changes in Malaysia's judiciary stir concerns of political intervention"* regarding the retirement of 14 judges of the Federal Court that would lead to the senior judges being bypassed in favour of politically linked candidates for new appointments and promotions;

(7) **RECOGNISING** that any interference with the judiciary will jeopardise the nation's economic prosperity and business confidence, in particular the efforts to attract foreign investment, and to provide free and fair dispute resolution mechanisms essential for commerce, economic development and foreign investments;

(8) **RECALLING** that the removals of Lord President Tun Salleh Abbas and the Supreme Court Judges, Tan Sri Wan Sulaiman and Datuk George Seah in 1988, and the events of the 1988 Judicial Crisis have been described as the *"darkest chapter in the history of the Malaysian judiciary"*;

(9) **RECALLING** the role of the Malaysian Bar that held the *"Walk for Justice"* on 26 June 2007 to present a memorandum to the then Prime Minister of Malaysia, Tun Abdullah Badawi, in the wake of the release of a video recording on 19 September 2007, infamously known as the *"VK Lingam video"*;

(10) **RECALLING** the role of the Malaysian Bar in the formation of the Panel of Eminent Persons to review, amongst others, the removal of the Lord President and 2 Judges of the Supreme Court in 1988;

(11) **RECOGNISING** the findings of the Panel of Eminent Persons in 2008 that the events surrounding the removal of Lord President Tun Salleh Abbas were a direct attack on the rule of law with the intent to attack the independence of the Judiciary and his Lordship was *"totally innocent and none of the charges against him had any merit"*, and that Tan Sri Wan Sulaiman and Datuk George Seah were improperly removed from office;

(12) **RECALLING** the establishment of the Judicial Appointments Commission on 2 February 2009 with the intention to improve the transparency and credibility in the process of appointing judges to the Superior Courts of Malaysia;

(13) **NOTING** with pride that the Malaysian Bar has been at the forefront of upholding and defending the independence of the Judiciary and the rule of law;

(14) **RECALLING** the words of the Supreme Court of India in the case of **R. Muthukrishnan v. The Registrar General of The High Court** which unequivocally declared:

"17. Role of Bar in the legal system is significant. The bar is supposed to be the spokesperson for the judiciary as Judges do not speak. People listen to the great lawyers and people are inspired by their thoughts. They are remembered and quoted with reverence. It is the duty of the Bar to protect honest judges and not to ruin their reputation and at the same time to ensure that corrupt judges are not spared…"

(15) **ACKNOWLEDGING** the Malaysian Bar's historical role, statutory and constitutional duty to uphold the independence of the judiciary and the rule of law and recognising that the Malaysian Bar must respond promptly and decisively to any threats to judicial independence;

RESOLUTIONS

The Malaysian Bar, in reaffirming its commitment to uphold the Federal Constitution, the rule of law, the doctrine of separation of powers, and the independence of the judiciary, hereby resolves:

MOTION 1 — REGARDING JUDICIAL APPOINTMENTS AND INDEPENDENCE OF THE JUDICIARY

A. To condemn in strongest terms any interference with the independence of the Judiciary by the Executive, Legislature, or any other individuals or entities; and 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 provided in the Federal Constitution and the Judicial Appointments Commission Act 2009; and

B. To call upon the Government of Malaysia to establish an independent commission of inquiry to conduct a thorough and transparent investigation into whether or not there was any interference as alluded to in the Chief Justice's speech, to determine whether proper constitutional and statutory procedures were followed in recent judicial appointments.

MOTION 2 — REGARDING THE ROLE OF THE MALAYSIAN BAR IN DEFENDING THE JUDICIARY

A. To mandate that the Bar Council takes immediate and public action, including but not limited to public statements, memoranda, or legal proceedings, in response to any credible information regarding interference with judicial independence or improper influence in judicial appointments; and to reaffirm the Malaysian Bar's unwavering commitment to defend the independence of the judiciary without fear or favour, as a fundamental statutory and constitutional duty.