



June 27, 2016

YAB Dato' Sri Mohd Najib bin Tun Abdul Razak  
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## OPEN LETTER

Dear Prime Minister

I write on behalf of LAWASIA, the Law Association for Asia and the Pacific.

LAWASIA is an association of law societies and bar associations from 30 countries of the Asia Pacific region and has among its constitutional aims and objectives the requirement to "*uphold and advance the status of the legal profession within the Region.*"

The purpose of this letter is to express the significant concern that arises in response to the Malaysian government's intentions to pass amendments to the *Legal Profession Act 1976* (LPA) which will have the effect of severely compromising the independence of the Malaysian Bar and drastically hampering its self-regulatory and internal management functions.

The Malaysian Bar is not only a founder member of LAWASIA, but has long been at the forefront of its efforts to develop and maintain the rule of law within the wider Asia Pacific region.

It has worked assiduously both at home and in the region to demonstrate and support the efficacy of its own objects as set out in the legislation that governs it, and which include at Sections 42 (1):

- *to uphold the cause of justice without regard to its own interests or that of its members uninfluenced by fear or favour;*
- *to represent, protect and assist members of the legal profession in Malaysia and to promote in any proper manner the interests of the legal profession in Malaysia;*
- *to protect and assist the public in all matters touching, ancillary or incidental to the law*

The importance of an independent bar to the integrity of any justice system and in consequence, to the independence of the judiciary as a cornerstone of the rule of law in any country or jurisdiction is a well-established international norm.

It is universally recognised in the United Nations *Basic Principles on the Role of Lawyers*, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990, which state at Clause (24):

24. Lawyers shall be entitled to form and join **self-governing** professional associations to represent their interests, promote their continuing education and training and protect their professional integrity. **The executive body of the professional associations shall be elected by its members and shall exercise its functions without external interference.** (Emphases added)

It is therefore of the gravest concern not only to LAWASIA, but also to all legal professional bodies throughout the world, that the Malaysian government's proposed amendments to the LPA seek in numerous ways to interfere with this principle.

It is of even further concern that the Malaysian Bar itself has not requested these changes, that it does not in any way support them and that it has elaborated very clearly on the impact they will have not only on its independence, but also on its functioning in support of its mandate as set out in legislation.

LAWASIA understands well, that at times, the Malaysian Bar is or has been at odds with the government over issues that it has, by virtue of the provisions of the LPA, the responsibility to act on.

It has noted with some admiration in the past that, despite differences, there has always been a continued dialogue between the Bar and the government and this has been a hallmark of the proper functioning of a democratic system that values an independent system of justice in support of the rule of law.

It is therefore both puzzling and alarming in the extreme that the Malaysian government now seeks to implement these unnecessary and wholly objectionable measures to interfere with the independent governance of the Malaysian Bar and the Malaysian profession.

LAWASIA comments that Malaysia has every reason to be proud of the Malaysian Bar for its continued efforts to fulfil its mandate as set out in Sections 42 (1) and (2) of the LPA, and especially those objects noted above.

Not only has it served the citizens of Malaysia commendably in this way, but it has also set an example for bars in less developed countries of the region, as they work to develop their own mechanisms in support of the good administration of an impartial justice system.

It can only be concluded that the government's actions in proposing these amendments to the LPA are directly aimed at demolishing the independence of the Malaysian Bar and will, in effect, take Malaysia down a path where the checks and balances intrinsic to democratic government are no longer present.

LAWASIA therefore calls on your government, in the most robust terms, to abandon immediately its plans to introduce the intended amendments to the LPA.

It wholeheartedly endorses the Malaysian Bar's complete rejection of these proposed amendments and adds its own voice, as a representative of the legal professional bodies of the region, to all other similar appeals to your government.

Yours sincerely

Prashant Kumar  
**PRESIDENT**

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