



19 July 2016

YAB Dato' Sri Mohd Najib bin Tun Abdul Razak
Prime Minister
Office of the Prime Minister of Malaysia
Main Block, Perdana Putra Building
Federal Government Administrative Centre
62502 Putrajaya
MALAYSIA

Dear Prime Minister

Re: Threat to the independence of the Malaysian Bar

The Australian Bar Association is the peak body representing the independent Bars of Australia.

I write this open letter to express the Association's grave concerns regarding the Government's intention to amend the Legal Profession Act 1976 ("LPA").

Australia and Malaysia enjoy good relations, a strong friendship and shared values. Amongst those shared values is the acknowledgement that an independent legal profession is one of the essential prerequisites for the protection of human rights, the rule of law, good governance and democracy. It is for this reason that the Australian Bar Association supports the ongoing independence of the Malaysian Bar.

The Association is aware that the Government of Malaysia is proposing a number of changes to the LPA, including a provision to grant the minister in charge of legal affairs the power to appoint two members of the Bar onto the Bar Council. Those appointees will represent the Government.

As you are aware, the UN Basic Principles on the Role of Lawyers require governments to ensure that lawyers can perform all their professional functions without intimidation, hindrance, harassment or improper interference. The principles also state that "lawyers shall be entitled to form and join self-governing professional associations", and that "the executive body of such associations should be elected by its members and exercise its functions without external interference".

The Malaysian Bar is an association whose aim is “to uphold the rule of law and the cause of justice and protect the interests of the legal profession as well as the public”.

This proposed amendment would effectively not only give the Attorney General the opportunity to receive reports on the deliberations and actions of this independent institution but, importantly, it also provides the opportunity to influence those deliberations and actions.

The Malaysian Bar has long been a defender of human rights and the rule of law in Malaysia. It is that very independence which has benefited the people of Malaysia for many years, however under such an arrangement, the Malaysian Bar’s ability to address on controversial issues that are at odds with the Government will be compromised. As a consequence, the interests of the people of Malaysia would be adversely affected.

The Association supports the ongoing independence of Malaysia’s legal profession and respectfully requests the Government to reconsider the proposed amendments which threaten the independence of the Malaysian Bar.

If there is anything that you or your staff wish to discuss in relation to this letter, please do not hesitate to contact me on +61 2 9232 4055 or contact@austbar.asn.au .

Yours sincerely

A handwritten signature in blue ink that reads "Patrick O'Sullivan". The signature is written in a cursive style with a small flourish at the end.

Patrick O’Sullivan QC
President