

Malaysian Bar A Partner In The Administration Of Justice
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The Malaysian Bar welcomes the clarification made by Deputy Prime Minister Muhyiddin Yassin that the Government is not proposing to establish an alternative body to take over the functions of the Bar Council. We trust that this puts an end to the recent attacks on the position of the Malaysian Bar and the role of the Bar Council.

The Malaysian Bar has always taken seriously its responsibilities under section 42(1)(a) of the Legal Profession Act 1976. It is a three-fold task: (1) to uphold the cause of justice; (2) without regard to its own interests or that of its members; and (3) uninfluenced by fear or favour.

Article 14 of the UN Basic Principles on the Role of Lawyers reinforces this role that lawyers must play:

14. Lawyers, in protecting the rights of their clients and in promoting the cause of justice, shall seek to uphold human rights and fundamental freedoms recognized by national and international law and shall at all times act freely and diligently in accordance with the law and recognized standards and ethics of the legal profession.

Calls for the Malaysian Bar not to stray into the political arena ignore the first part of the three-fold task — to uphold the cause of justice. Justice is so intertwined with governance that in order to uphold the cause of justice the Malaysian Bar expresses its views on laws and policies, and works with Government, opposition and civil society in order to help shape laws and structure policies that honour the Malaysian people and serve the common good. We criticise Government and opposition if the need arises, and collaborate with civil society when appropriate. We are neither anti-Government nor pro-opposition, but merely doing what we should and must do: upholding the cause of justice. In so doing the Malaysian Bar engages in activities associated with the governance of the nation. However, the Bar is not involved in any contestation over political power — namely activities aimed at getting or maintaining power — hence any allegation that the Bar engages in this sphere of politics is wholly unfounded.

Criticisms that the Malaysian Bar as a professional body should focus purely on professional or internal issues fail to understand that the Malaysian Bar is charged with looking beyond its own parochial and pecuniary self-interests, and to act in the name, and for the greater good, of society at large. We are partners together with the Judiciary and other officers of the court to uphold justice and the rule of law.

But the rule of law does not mean that we must not criticise or go against existing laws. That is too simplistic. There are good laws, and bad laws, and society must distinguish between the two. Like a voice in the wilderness, the Malaysian Bar has repeatedly spoken out against bad laws, such as the Internal Security Act 1960 for example, which the Malaysian Government finally abolished earlier this year.

As for the third element, comments that the Malaysian Bar is partisan ignore the fact that the Malaysian Bar must act "uninfluenced by fear or favour". We do not curry favour, but nor do we pander to public opinion. We speak up for truth and justice, regardless whether it is popular or convenient with Government, or opposition, or rakyat. We acknowledge that this will sometimes pit us against Government (as in our denunciation of all preventive detention legislation) or against contemporary thinking (as in our opposition to the use of the death penalty), but speak up we must. And so we have, in regard to the excessive police force our observers witnessed on 28 April 2012 during the BERSIH 3.0 public assembly.

The Malaysian Bar will continue to live up to its responsibilities as a partner in the administration of justice

in this country. Our statements, reports, memoranda and resolutions should be embraced as efforts to assist the Government to improve its governance, for the betterment of the nation and the rakyat. We will disagree with the Government at times, but we trust that we can choose to disagree agreeably and without having our existence and functions called into question each and every time the Government does not like what we say.

It is regrettable that the full extent of the Malaysian Bar's message and work are not more widely known. In this regard we remind media professionals of their responsibility to engage in fair, accurate, honest, balanced and responsible journalism, particularly in their treatment of controversial subjects and dissenting viewpoints.

It is axiomatic that lawyers are vital cogs in the machinery of justice, and unless there is an independent Bar ready and willing to defend rights that are guaranteed in society, there cannot truly be said to be freedom and rule of law.

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