



Commonwealth Lawyers Association

Statement on the Resolution by the Malaysian Bar Regarding the Independence of the Judiciary

The Commonwealth Lawyers Association (“CLA”) notes the concerns over the perceived erosion of the independence of the judiciary in Malaysia, raised by the Malaysian Bar at its Annual General Meeting held on 15 March 2025, which resulted in a [resolution](#) that was unanimously adopted.

The resolution makes reference to the [speech made by the Chief Justice of Malaysia](#), Tun Tengku Maimun Tuan Mat, at the Opening of the Malaysian Legal Year 2025, in which she addressed the improper circumvention of the constitutional or statutory framework for judicial appointments:

[N]o 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.¹

By its resolution, the Malaysian Bar condemned in the strongest terms any interference with the independence of the judiciary and reaffirmed its unwavering commitment to defend the independence of the judiciary, without fear or favour.

The CLA recalls the [UN Basic Principles on the Independence of the Judiciary](#), which state that “[i]t is the duty of all governmental and other institutions to respect and observe the independence of the judiciary”.

The CLA also recalls Principle 4 of the [Commonwealth \(Latimer House\) Principles on the Three Branches of Government](#), which states that “an independent, impartial, honest and competent judiciary is integral to upholding the rule of law, engendering public confidence and dispensing

¹ The Chief Justice also [spoke at the CLA’s 23rd Commonwealth Law Conference](#) in Goa, India on 8 March 2023, at which she articulated the importance of constitutional and statutory protections in preserving and strengthening the independence of the Malaysian judiciary.

justice. In addition, Principle 4 states “[j]udicial appointments should be made on the basis of clearly defined criteria and by a publicly declared process”.

The [Commonwealth Bar Leaders Declaration on Preserving and Strengthening the Independence of the Judiciary and on Ensuring the Independence of the Legal Profession](#) (known as the “Goa Declaration”) provides that “the appointment of judges must be performed in a manner that is transparent and which ensures only qualified individuals are selected, and the selection must be by a process that is free of any improper influence, discriminatory behaviour or inappropriate consideration”.

The CLA further refers to the “[Judicial Appointments Commission: A Model Clause for Constitutions](#)”, which serves as a benchmark for establishing a comprehensive framework and model provisions to ensure a fair, transparent, and independent process for judicial appointments, and commends its adoption.

Judicial independence is a fundamental principle that underpins constitutional governance and serves as the bedrock of democratic systems, with the rule of law at its core. Any compromise to this principle diminishes public trust, weakens democratic institutions, and undermines access to justice as well as the administration of justice. To safeguard the integrity of the judiciary, it is imperative that judicial appointments are transparent, free from interference, and adhere to established best practices.

The CLA therefore calls on the Government of Malaysia to continue to scrupulously promote, uphold and protect the independence of the judiciary, ensuring strict compliance with constitutional and statutory provisions in the appointment of judges.

Commonwealth Lawyers Association (CLA)

19th March 2025

The **Commonwealth Lawyers Association** is an international non-profit organisation which exists to promote and maintain the rule of law throughout the Commonwealth by ensuring that an independent and efficient legal profession, with the highest standards of ethics and integrity, serves the people of the Commonwealth. commonwealthlawyers.com