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## **UN AWARD MALAYSIA 2012**

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### **Citation for the Malaysian Bar**

Throughout its 66-year existence, the Malaysian Bar has admirably fulfilled its role as guardian of the rule of law, and defender of human rights and the public interest in Malaysia. The Malaysian public has come to look to the Malaysian Bar for guidance on what the law is, what the law should be, and what the law must never be.

As a statutory body set up under the Legal Profession Act 1976, the Malaysian Bar is tasked to “uphold the cause of justice without regard to its own interests or that of its Members, uninfluenced by fear or favour”, and to “protect and assist the public in all matters touching ancillary or incidental to the law”. The Malaysian Bar has been exemplary in discharging its responsibilities. In particular, the Malaysian Bar has shown unfailing commitment in standing up and unwavering zeal in speaking out against abuse of power by those in authority.

The Malaysian Bar's history has been marked by opposition to legislation that is draconian and against the interests of justice. In the 1970s it stood against the Essential (Security Cases) Regulations, 1975, that amended the law for the trial of offences against national security, which included changes in the basic rules of evidence and removal of a judge's discretion in sentencing. In the early 1980s a contingent of lawyers marched to Parliament House to oppose amendments to the Societies Act, which infringed on the freedom of association and curtailed the self-regulation of registered societies. 42 lawyers were subsequently charged in court for taking part in an unlawful assembly, found guilty, admonished and discharged.

In the late 1980s the Malaysian Bar protested the Executive's assault on the independence of the judiciary, which led to the suspension of the Lord President and five judges of the Supreme Court, and which culminated in the dismissal of the Lord President and two judges of the Supreme Court.

Throughout the 1990s and 2000s, the Bar continued to consistently advocate for the independence of the Judiciary, and has persisted in calling for the assertions of judicial misconduct to be investigated, even to the extent of calling for a royal commission of inquiry, to which the government agreed.

One aspect of the Malaysian Bar's work that sets it distinctively apart from many other law associations is its robust defence of democracy and human rights — particularly civil and political rights — and its intolerance of discrimination.

Since 2000 in particular, the Malaysian Bar has been vocal in promoting the right to freedom of belief, and mutual respect and acceptance of all faiths. The Malaysian Bar has actively engaged with the authorities on proposed amendments to relevant legislation, and provided its views on conflicts of laws issues that face families caught between the separate jurisdictions of civil and Syariah laws. In addition, it has repeatedly called for the open and constructive exchange of views as a means of fostering national unity.

In more recent years the Malaysian Bar has championed the rights of the Orang Asli community, persons with disabilities, and the freedoms of assembly and association. The landmark native title case of **Sagong Tasi**, which recognised the proprietary interest of the Orang Asli in their ancestral lands, was undertaken completely on a *pro bono* basis by a team of lawyers from the Malaysian Bar. The “Walk for Justice” in 2007 and “Walk for Freedom” in 2011 were bold moves to highlight travesties of the administration of justice and rule of law, and to oppose unjust laws.

Undeterred by threats, and allegations of political bias, the Malaysian Bar has continuously and unhesitatingly taken a stand in favour of human rights, fundamental freedoms and civil liberties, greater constitutionalism, access to justice, and an independent Bench and Bar.

Through the holding of watching briefs, the Malaysian Bar signals its concern on particular issues, such as conversion of children; gender discrimination; deaths in custody; the constitutionality of requiring a police permit for a gathering; sedition; and excessive use of force by law enforcement personnel. The Malaysian Bar has also often been called upon to provide monitors to observe public assemblies organised by other groups. The Malaysian Bar’s presence at these trials, inquests, inquiries and public assemblies reminds those responsible for the administration of justice in this country that the Bar will not sit idly by where matters of public or national interest are concerned.

Since March 2009, the Malaysian Bar’s ground-breaking MyConstitution Campaign has undertaken a plethora of innovative activities and events throughout the country, in its mission to promote constitutional awareness and constitutionalism amongst Malaysians.

The launch of the National Legal Aid Foundation (Yayasan Bantuan Guaman Kebangsaan) on 25 February 2011 was a significant milestone in the history of the Malaysian Bar’s involvement in ensuring access to justice through the provision of legal aid. The Malaysian Bar is one of the few law associations that run a fairly widespread legal aid scheme funded solely by a levy imposed on all its Members. Despite the scheme’s existence since 1982, however, many arrested individuals are still unrepresented, as the scheme does not have adequate resources. For many years, the Malaysian Bar had lobbied for the establishment of a comprehensive legal aid scheme, and the establishment of the Foundation – which is a collaborative effort with the Government - a momentous step forward in plugging this gap.

The UN in Malaysia has no doubt that the Malaysian Bar will continue to uphold its democratic values and norms and its tradition, and indeed its duty, of speaking up against injustice, and unjust laws and practices.