



**Dr Peter Maynard KC**  
President  
**Linda Kasonde**  
**Hasan Khan**  
**Laurie Pawlitza**  
**Mark Stephens CBE**  
Vice Presidents  
**Maria Mbeneka**  
Honorary Treasurer  
**Brigid Watson**  
Secretary General

The Rt Hon Prime Minister Dato' Seri Anwar Ibrahim  
Office of the Prime Minister of Malaysia  
Main Block, Perdana Putra Building  
Federal Government Administrative Centre  
62502 Putrajaya  
Malaysia  
Email: [ppm@pmo.gov.my](mailto:ppm@pmo.gov.my)

20<sup>th</sup> April 2023

Dear Prime Minister,

The Commonwealth Lawyers Association (CLA) is concerned over the action taken by the Malaysian Anti-Corruption Agency (MACC) against Judge Datuk Nazlan Ghazali. ("Judge Nazlan")

We are aware that Judge Nazlan presided over the SRC trial in which the former Prime Minister, Dato Sri Najib Razak ("Najib Razak"), was found guilty and was sentenced to twelve years imprisonment with a fine. We are also aware that Judge Nazlan's decision has been upheld on appeal by the Court of Appeal, and on further appeal, by the Federal Court. We further note that a review of the decision of Federal Court was recently dismissed (by a majority) of different set of judges of the Federal Court.

We have been informed that, during the pendency of the case at the Federal Court, the MACC mounted an investigation against Judge Nazlan, for allegedly violating the Judges Code of Ethics. This allegation had also been raised by Najib Razak in the above-mentioned Federal Court case and was twice dismissed by the Federal Court. The allegation against Judge Nazlan is clearly outside the investigative jurisdiction of the MACC. Further, based on the decision(s) of the Federal Court, the allegation has been found to be unmeritorious. The issue is now *res judicata*.

We are alarmed that, not only did the MACC launch the investigation against Judge Nazlan, it also went further to make a public announcement of its investigation and its findings have been also made public. The CLA considers the conduct of the MACC to be a gross violation of the separation of powers and tantamount to executive interference with the administration of justice.

While we recognize the prerogative of the MACC to combat corruption in your country, we are concerned about the impact that this investigation against a sitting judge may have on the Malaysian judicial system and respect for the rule of law. As a government, it is important for the Executive to respect, protect and uphold the independence of the judiciary, which is the central pillar of the administration of justice. The judiciary must remain independent, impartial, and free from any form of interference or coercion especially by the Executive.

By investigating a sitting judge, particularly in the manner in which the investigation was initiated and in releasing the findings, the MACC has sent a worrying message about the role and independence of judges in Malaysia. This action could be perceived as an attempt to intimidate the judiciary and undermine its credibility, which would be detrimental to the rule of law and the public's trust in public institutions.

As head of Government, we respectfully emphasise to you the importance of protecting the integrity of the Malaysian judicial system and ensuring that judges are free to discharge their duties without fear or favour. While nobody is above the law, we must be careful to maintain due process and uphold the presumption of innocence until proven guilty. This includes respecting the rights of those accused of wrongdoing, including the right to a fair trial and the right to be heard.

As the Prime Minister of Malaysia, the CLA urges you to take proactive steps to address this issue and safeguard the independence and impartiality of Malaysian judiciary.

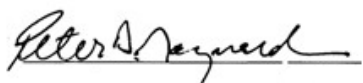
Please note that Bar Leaders from over 40 countries who attended the recently concluded Commonwealth Law Conference in Goa, India (5-9 March 2023) adopted the Goa Declaration on the Preservation and Strengthening of the independence of the Judiciary and the Legal Profession. We wish to draw your attention to declarations 3 – 4 of the **Goa Declaration**:

***3. The judiciary's role and function in the scheme of separation of powers in government must be protected, and no measures should be adopted to prevent the judiciary from carrying out its function effectively or interfere with that function.***

***4. Judicial decisions must be respected and complied with and must not be reversed or nullified, except in accordance with law and applicable domestic legal procedure in compliance with international legal standards.***

Thank you for your attention to this matter.

Sincerely,



President, CLA

Cc: Attorney General of Malaysia

Chief Justice of Malaysia

President, Malaysian Bar

United Nations Special Rapporteur on the Independence of Judges and Lawyers