



**THE ADVOCATES ASSOCIATION OF SARAWAK**

**PRESS RELEASE DATED 17<sup>TH</sup> JUNE 2022**

- (1) The Advocates Association of Sarawak (AAS) have been cautiously and continuously monitoring and keeping abreast with the developments surrounding the investigation launched by the Malaysian Anti-Corruption Commission (MACC) onto a serving Court of Appeal Judge over an allegation of unexplained monies in the said Court of Appeal Judge's banking account.
- (2) On 21<sup>st</sup> April 2022, the Office of the Chief Registrar of the Federal Court of Malaysia had issued a press release informing that the said Court of Appeal Judge had lodged a police report denying the allegations raised in statements that had appeared in Malaysia Today on 20<sup>th</sup> April 2022 and further stated that those allegations are false, baseless and maliciously designed to interfere with the due administration of justice.
- (3) On 27<sup>th</sup> April 2022, the Right Honourable Chief Justice of Malaysia in Her Ladyship's speech at the taking of Oath of Office and Loyalty Ceremony of High Court Judges said:

*"It is important to emphasise that the Judiciary is the last line of defence in a constitutional democracy and there must never be a suspicion that the Judiciary is captured".*

*"When a need arises for the Judiciary to be criticised, this should be done in a manner that is constructive and does not undermine its independence and public confidence in the Judiciary. No one should sow the seeds of doubts among the public concerning the integrity of the Judiciary or Judges".*

*"Under no circumstances should we falter. The integrity of the justice system and the independence of the Judiciary can never be compromised under any circumstances".*

- (4) AAS ascribe to the wisdom of the Right Honourable Chief Justice of Malaysia and fully support Her Ladyship's stance on independence of the Judiciary.
- (5) Independence of the Judiciary is a hallmark principle expounded in the concept of separation of powers between the respective legislative branch and the executive branch and the judiciary branch of the system of government. Independence of the Judiciary is also critical to preserve the existence and survival of the Rule of Law as a pathway towards a respectable administration of justice.
- (6) Whilst AAS agrees that no one is above the law, there are specific legislative provisions to address the allegations that had been levelled against the said Court of Appeal Judge.
- (7) It brings forth to mind the position of Article 125 enshrined in the Federal Constitution of Malaysia. AAS is of the opinion that the appropriate avenue to lodge the complaint against the said Court of Appeal Judge should have been to the Right Honourable Chief Justice of Malaysia as provided under the Judges' Code of Ethics 2009 which is a direct legislative subsidiary under Article 125 of the Federal Constitution of Malaysia. The Malaysian Anti-Corruption Act 2009, upon which the MACC was established, is a subservient legislation to the Federal Constitution of Malaysia rather than a direct legislative subsidiary.
- (8) Therefore, by the MACC launching the investigation onto the said Court of Appeal Judge without the avenue to The Right Honourable Chief Justice of Malaysia having been exhausted, is an intrusion into the affairs of the Judiciary and thereby prejudicing the independence of the Judiciary. AAS urge the Executive Branch of the Government as well as MACC to put a stop to such intrusion immediately and not to initiate any such intrusions onto the Judiciary in the future.
- (9) MACC should not be allowed to usurp the powers of The Right Honourable Chief Justice of Malaysia as prescribed under the Federal Constitution of Malaysia. AAS is of the view that The Right Honourable Chief Justice of Malaysia is the proper authority who should have been allowed to address the allegations levelled against the said Court of Appeal Judge in the manners prescribed under the Judges' Code of Ethics 2009. Afterall, the said Court of Appeal Judge is a serving Judge under The Right Honourable Chief Justice of Malaysia.

- (10) Further, AAS views the way MACC had gone to the media as reported on 23<sup>rd</sup> April 2022 and the press statement issued on 28<sup>th</sup> April 2022 as utmost inappropriate. The action of the MACC had done no favours to preserve the public confidence in the Judiciary which may lead to downgrading of trade and investment in Malaysia. AAS is mindful that the nation had endured difficult times due to Covid-19 and is only beginning its economic recovery and every inch of such economic recovery should be preserved and not eroded.
- (11) As reminded by the Office of the Chief Registrar of The Federal Court of Malaysia, the actions by the MACC had violated the principles of sub judice. AAS is reminded that an appeal of the said Court of Appeal Judge's decision (when he was then the presiding High Court Judge) to the Federal Court of Malaysia is pending hearing. AAS is also closely monitoring the pending suit filed before the High Court in Kuala Lumpur seeking certain declarations over the actions of the MACC concerning the said Court of Appeal Judge – AAS is of the view that as officers of the Court, the most appropriate action should be to seek redress from the Courts rather than attempting to assert external pressure toward an issue that goes to the very root of constitutional independence of the Judiciary.
- (12) AAS calls upon MACC to take a step back and reflect upon the investigations it had launched onto the said Court of Appeal Judge. AAS urges MACC to stop or suspend the investigation and to refer the matter to The Right Honourable Chief Justice of Malaysia as provided under the Judges' Code of Ethics 2009 so that the matter can be judiciously addressed by The Right Honourable Chief Justice.
- (13) AAS have since made representations to the government vide a formal letter to the Prime Minister to demand for the preservation of the separation of powers and for the intrusions made upon the powers of The Right Honourable Chief Justice of Malaysia to be restored.
- (14) In closing, AAS urge the preservation of the principles enshrined in Separation of Powers and the Rule of Law so that a respectable administration of justice can be rooted in Malaysia.

Dated this 17<sup>th</sup> June 2022



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