



# MALAYSIA

PERMANENT MISSION TO THE UNITED NATIONS



CANDIDATE  
to the  
UNITED NATIONS  
SECURITY COUNCIL  
for the term 2015-2016

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**STATEMENT BY  
H.E. AMBASSADOR HUSSEIN HANIFF  
PERMANENT REPRESENTATIVE OF MALAYSIA  
TO THE UNITED NATIONS**

**ON AGENDA ITEM 82 ENTITLED  
“RULE OF LAW AT THE NATIONAL AND INTERNATIONAL LEVELS”  
AT THE SIXTH COMMITTEE OF THE SIXTY-NINTH SESSION OF  
THE UNITED NATIONS GENERAL ASSEMBLY**

**NEW YORK, 9 OCTOBER 2014**

Mr. Chairman,

On the outset, my delegation wishes to align itself with the statements delivered by Iran on behalf of the Non-Aligned Movement (NAM) and by Lao People’s Democratic Republic on behalf of the Association of Southeast Asian Nations (ASEAN). We extend our appreciation to the UN Secretary General for his report on strengthening and coordinating United Nations rule of law activities as contained in document A/69/181.

2. My delegation is of the view that this year’s theme, entitled “Sharing States’ national practices in strengthening the rule of law through access to justice”, is an important subject which Malaysia holds profoundly.

Mr. Chairman,

3. Malaysia associates closely to the core values of the United Nations (UN) in promoting and upholding the rule of law at the national and international levels. Respect for the rule of law at the international level is fundamental in achieving durable and sustainable international peace and security. Without the rule of law there can be no stability and as such there can be no economic development.

4. At the national level, the rule of law in Malaysia is guaranteed in the Federal Constitution, as well as in other Federal and State laws. Access to justice in Malaysia is enshrined by the Federal Constitution where the rights of the individuals, equality before the law and fundamental rights and liberty are equally protected without discrimination.

5. Access to justice is further exemplified by the role and function of Attorney General of Malaysia as the Public Prosecutor within the power conferred under Federal

Constitution and the Criminal Procedure Code. In initiating criminal prosecution, the Public Prosecutor takes into account the legislative provisions and elements of crimes, and public interest and in all circumstances exercises his power and prerogative with the sole purpose of protecting the interest of the public and rule of law.

6. The substantive laws containing the element of rule of law could be found in the Specific Relief Act 1950, Court of Judicature Act 1964 and the Penal Code. The procedural laws, among others, require a person to be brought to justice without delay, requires an arrested person to be informed of his ground of arrest and given access to seek legal representation before giving any statement during the investigation. For example, Article 5(2) of the Federal Constitution guarantees the application for writ of *habeas corpus*.

Mr. Chairman,

7. An important element to a progressive nation is an independent, efficient and competent judicial system that is critical to the rule of law. In Malaysia, the independence of the judiciary is constitutionally guaranteed under the Federal Constitution which incorporate several safeguards to enhance judicial integrity and independence. The establishment of courts, the judicial hierarchy, and the jurisdiction and composition of the courts are prescribed by law and are not open to interference by the executive body.

8. Malaysia has also undertaken legal reforms to uphold the principle of rule of law through access to justice, which is reflected by the recent annulment of three Proclamations of emergency, the repeal of the Internal Security Act 1960 (ISA) and the enactment and amendments of the relevant laws to enhance the rights of its citizens as enshrined in the Federal Constitution.

Mr. Chairman,

9. Legal representation is another important element in ensuring access to justice. Malaysia's Federal Constitution protects and confers such right to every person. There are several mechanisms in Malaysia to ensure every citizen can exercise this right. The first is the National Legal Aid Foundation (NLAF) which was incorporated on 25 January 2011. The National Legal Aid is to provide free legal assistance to all those who are unable to afford the payment of legal fees. It provides services in all criminal, except those which carry death penalty, and Syariah criminal matters at the stage of arrest, remand, charge, bail application, mitigation, hearing and appeal. In the event that the person who is charged with offences which carry death penalty and is unrepresented by his or her personal counsel, the Malaysian court will provide assigned counsel to the person charged without imposing any fees.

10. Another mechanism is the Legal Aid Department which was established back in 1970. The services provided by the Department include representation or provide legal assistance to all eligible citizens, in proceedings in all courts in Malaysia. The

Department also provide mediation services and promote legal awareness to the members of the public on their rights.

11. The third mechanism is the Bar Council Legal Aid Centre (BCLA) which was established by the Malaysian Bar Council. The BCLA, provides free legal advice and representation where cases are taken on voluntary basis by its lawyers. The Centre, works on pro-bono basis in the community, can also be found in every state in Malaysia and is funded by the contribution from Members of the Bar.

Mr. Chairman,

12. On geographical access, my delegation wishes to share that Malaysia has undergone numerous challenges to guarantee access to justice. Through our commitment, geographical limitation is no longer a hindrance. Access to judicial institutions is available in every district in Malaysia. Where geographical challenge prevails, the government has introduced mobile courts that would guarantee access to justice to the population. Such mobile courts are frequent in remote areas in the states of Sabah and Sarawak, Malaysia.

13. Notwithstanding that, Malaysia also has established several tribunals which deal specifically on certain matters such as the Homebuyer Claims Tribunal, Consumer Claims Tribunal and Customs Tribunal. Those tribunals could serve as an alternative channel for consumers to claim damages in a convenient, fast and easily accessible manner.

Mr. Chairman,

14. Malaysia's commitment towards access to justice in the context of the promotion and protection of human rights is exemplified, among others, by the establishment of the Human Rights Commission of Malaysia in 1999 by virtue of the Malaysian Human Rights Commission Act 1999. The Commission is entrusted with the power to inquire into complaints relating to the infringement of human rights referred to in Part II of the Federal Constitution.

15. As a Member State of the Association of Southeast Asian Nations (ASEAN), Malaysia is part of the regional effort to promote the principle of rule of law. This on-going effort is manifested in the inclusion of the principle of the rule of law as part of the purposes and principles of ASEAN in its Charter. The doctrine of the rule of law is also entrenched in the ASEAN Declaration of Human Rights. Malaysia's continuous involvement in the ASEAN Intergovernmental Commission on Human Rights and its works clearly reflect Malaysia's commitment to promote the rule of law and access to justice within its country to a higher level.

16. At the international level, my delegation is of the opinion that the United Nations could work closely with the Member States to further strengthen the cooperation in access to justice through sharing of best practises. With 193 Member States, we are

sure that the sharing of experience in the rule of law and access to justice would be beneficial through comparison and also underlining important red-lines. One such example is the United Nations Development Programme (UNDP) publication as well as teaching material, on the drafting national strategy for legal aid and promoting awareness in the field of legal aid in less developed regions around the world.

Mr. Chairman,

17. Malaysia wishes to reaffirm its commitment to the right of equal access to justice for all, including members of vulnerable groups in society. We stand by our commitment to provide fair, transparent, effective, and accountable services particularly in ensuring access to justice. Malaysia would continue to be a partner in the work to further strengthen cooperation among the Member States in improving the rule of law at the international stage. We look forward to working closely with the UN and the international community on this item.

I thank you.