

MALAYSIA

PERMANENT MISSION TO THE UNITED NATIONS



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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**

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. 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

