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OPEN LETTER

**Judiciary in Crisis, Whither the Rule of Law?**

Dato' Seri Abdullah bin Haji Ahmad Badawi  
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Dear Mr. Prime Minister,

The Asian Forum for Human Rights and Development (FORUM-ASIA) writes to seek your immediate intervention regarding the video clip which shows a senior lawyer named VK Lingam in a phone conversation with the then-Chief Judge of Malaya Ahmad Fairuz Sheikh Abdul Halim (now the Chief Justice) on fixing the appointment of senior judges. It is thought to have been recorded sometime in the year 2002 and made public on 19 September 2007 by the office of Parti Keadilan Rakyat (PKR). We urge that your government take a decisive remedial measure on the revelation by setting up an independent Royal Commission to investigate the judicial misconduct.

We urge your government to suspend Chief Justice Ahmad Fairuz Sheikh Abdul Halim and appoint an acting Chief Justice until investigation is completed. This move is critical to restore public confidence in what has been regarded as a 'weak judicial system since 1988' with a robust, independent and professional judiciary that functions consistently with international norms and standards.

Any attempt to discredit the revelation only leads to increasing lack of trust and delay in the progress of the judicial system in your country. We believe that the setting up of the Royal Commission will not only serve as a platform for transparent and accountable review processes, it will also prevent any attempt to conspire and influence the judiciary.

Article 10 of the United Nations Basic Principles on the Independence of the Judiciary explicitly stipulates that "*Persons selected for judicial office shall be individuals of integrity and ability with appropriate training or qualifications in law. Any method of judicial selection shall safeguard against judicial appointments for improper motives.*"

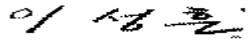
The Universal Charter of the Judge (Central Council of the International Association of Judges) (1999) also declares, in Article 2, "*[J]udicial independence must be ensured by law creating and protecting judicial office that is genuinely and effectively independent from other state powers. The judge, as holder of judicial office, must be able to exercise judicial powers free from social, economic and political pressure, and independently from other judges and the administration of the judiciary;*" and Article 9 "*the selection and each appointment of a judge must be carried out according to objective and transparent criteria based on proper professional qualification. Where this is not ensured in other ways, that are rooted in established and proven tradition, selection should be carried out by an independent body that include substantial judicial representation.*"

Malaysia's international standing as a country that has been independent for 50 years rings hollow if the judicial system still lacks of credibility and accountability. Setting up of an

Independent Judicial Commission on the Appointment and Promotion of Judges is timely correct to avoid these damaging and illegitimate activities.

As a member state of the United Nations, your government must ensure that the judiciary is able to properly perform its functions without any hindrance.

Sincerely,



Anselmo Lee  
Executive Director

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