

UNION INTERNATIONALE DES AVOCATS



INTERNATIONAL ASSOCIATION OF LAWYERS
UNION INTERNACIONAL DE ABOGADOS
INTERNATIONALE ANWALTSUNION
UNIONE INTERNAZIONALE DEGLI AVVOCATI
UNIÃO INTERNACIONAL DE ADVOGADOS
الاتحاد الدولي للمحامين

Rassembler les avocats du monde ♦ Bringing Together the World's Lawyers ♦ Reunir a los abogados del mundo

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The Honourable Dato' Sri Mohd Najib bin Tun Abdul Razak
Prime Minister of Malaysia,

c/o Principal Private Secretary to the Prime Minister
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Paris, June 22, 2009

Dear Mr Prime Minister,

The UIA (Union Internationale des Avocats) is profoundly concerned about the Malaysian government's recent arrest and temporary detention of five lawyers as they were waiting to represent their clients in custody at a local police station. The five lawyers, members of the Bar Council Legal Aid Centre, were arrested on the night of May 7, 2009, at the Brickfields Police Station in Kuala Lumpur, as they were seeking access to their clients who had been arrested earlier in the evening during a candlelight vigil. The lawyers were not released until late in the afternoon of May 8, despite the protestations of other bar members.

The arrest and detention of lawyers seeking to perform their duties of legal representation is a blatant violation of the rule of law. It both profoundly infringes upon the rights of lawyers to practice their profession freely and independently, and transgresses their clients' right to counsel. The conduct can only have a significant chilling effect on the rest of the bar and on others in society who might consider seeking counsel for their legal needs. It is inconsistent with a free and democratic government, and constitutes a gross violation of international norms of human rights.

The UIA recalls the *Basic Principles on the role of Lawyers* adopted in September 1990¹ by the *Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders* which stipulates :

“Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics (Rule 16).

They further state that where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities (Rule 17).

Adopted unanimously by the States represented at the Eighth Congress – among which Malaysia- the UIA considers that the said Principles have a normative value, on account of international customary law.

The United Nations General Assembly underscored the importance of these Principles in a resolution dated December 18, 1990 (A/RES/45/166) and invited governments to respect them and take them into consideration within the framework of their national legislation and practices.

The UIA, the world's oldest international law organization, with more than 300 Bars and Law Societies representing nearly two million lawyers, together with thousands of individual members from all over the world, counts protection of lawyers and their right to practice freely and independently as one of its core values, a basic human right and a cornerstone of the rule of law. It expresses its full solidarity with the Malaysian bar in protesting the illegal arrest and detention of the five lawyers, and calls for the following actions to be taken immediately:

- 1) any and all legal action against the lawyers should be dismissed;
- 2) an independent and thorough investigation should be undertaken into the conduct of the police officers and any other government officials involved in the arrest;
- 3) based on the results of that investigation, any officer or other official found to have acted improperly should be appropriately disciplined;
- 4) concrete and transparent steps should be taken to avoid similar conduct in the future; and
- 5) the Malaysian government should reaffirm its commitment to the rule of law, the right of lawyers to practice their profession freely and independently, and the right to counsel of all Malaysian citizens.

Yours sincerely,



Stéphane BONIFASSI

¹ <http://www2.ohchr.org/french/law/barreau.htm>