

MINISTER'S SPEECH
LAUNCHING OF MEDIATE FIRST PLEDGE
18 NOVEMBER 2021

Thank you, Madam Emcee,

YBrs. Mr AG Kalidas, the President of the Malaysian Bar,

**Y.Bhg. Datuk Haji Mohd Rabin bin Basir, the Director General of
Legal Affairs Division of the Prime Minister's Department,**

**Y.Bhg. Datuk Khutubul Zaman bin Bukhari, the Co-Chairperson of
Bar Council Mediation Committee,**

Ladies and Gentlemen.

Assalamualaikum w.b.t and a very good morning.

1. First of all, I would like to express my gratitude to all the representatives of law firms who have given their **pledge to be a Mediate First Law Firm in support of PMC-19**. Allow me to also thank the **Malaysian Bar, together with the Legal Affairs Division**

of the Prime Minister's Department, the Malaysian Mediation Centre (MMC) and the COVID-19 Mediation Centre (PMC-19) for organizing this event.

2. In 2020, the government introduced the **Temporary Measures for Reducing the Impacts of COVID-19** law. The main aim of this law is to assist businesses and individuals affected by the impacts of COVID-19 to bounce back with resilience. As part of the Act, **Section 7** stipulates the **inability to perform contractual obligations**, in which types of contracts were identified by the government through a holistic engagement process with various stakeholders from the **government and industry players**. The coverage of the types of contracts include **construction related contracts, hire purchase, commercial lease, tourism, event and pilgrimage related** to name a few. However, what is interesting is **Section 9** of the Act which provides for **Mediation as an alternative to resolve these contractual disputes**. The government went a step further to establish its very own Mediation Center **known as Pusat Mediasi COVID-19 (PMC 19)** established under the Prime Minister's Department. The government had also agreed to cover the costs of mediation under PMC-19. As a synergistic move the

government sought the assistance from the **Malaysian Bar, Sabah Law Society and Advocates Association of Sarawak** to conduct mediation services for PMC-19.

3. This initiative is a **First in the World initiative** where a **Government of a country undertook to sponsor** the cost of experienced commercial mediators to carry out mediations to assist parties who face the brunt of contractual disputes due to the Movement Control Orders introduced by the government to curb the spread of COVID-19.

Ladies and Gentleman,

4. We have gone through this pandemic for almost two years now. During these difficult times, the people have been badly hit in many ways, many have lost their jobs, forced to take huge pay cuts, businesses have closed down due to the inability to make ends meet. All this has led to huge losses, debts, and the disruption and one's mental state.
5. The government has announced and implemented various **stimulus packages** to help the nation to recover and to recuperate

from the impacts of the pandemic. In 2020, the government announced the **Economic Stimulus Package (ESP)** called **PRIHATIN** which provided support to all quarters of the society. Subsequently, stimulus packages were announced and implemented to assist industries and businesses especially SMEs to recover from the impacts of the pandemic. In 2021 **The National Recovery Plan (NRP)** was introduced. The recently announced **budget 2022** focuses on **recovery, rebuilding national resilience** to drive **socio-economic recovery activities** and the **national development agenda**.

Ladies and Gentleman,

6. The introduction of the **COVID-19 Act 2020 and PMC-19** has established a platform where disputing parties can settle their disputes amicably. To date in Malaysia only a small number of disputing parties have taken the opportunity to go through the PMC-19 mediation process. I understand that the success rate is almost 100% of the cases which have been closed after mediation. That is very encouraging, however, I believe more people should utilize the PMC-19 services. I was informed that several cases are pending, and I look forward to continued good news.

7. I was made to understand that, many parties who approached PMC-19 faced the challenge of unwilling counterparties hence disputes could not be mediated at PMC-19 and stayed unresolved. Many of them were not represented by lawyers and perhaps they did not have the awareness of the benefits of mediation.

8. In this regard, the gatekeepers of a dispute are the lawyers. **Lawyers play a very crucial role in not only advising their clients of their legal rights but also the various ways they can actually solve their problems** and get back to business or recovery in many cases.

Ladies and Gentleman,

9. Legal rights suggest that bankrupting debtors, foreclosing properties, seizures and sale and winding up companies are legal entitlements. The question I want to leave everyone with today is: whether it really solves any problems? Such measures although available should only be a last resort in these times where we need to work together to find a way out of the crisis and back onto our feet.

10. There is nothing impressive about bankrupting or winding up companies and businesses and putting many Malaysians out of jobs. **These difficult times call for corporate governance of a different kind where companies and owners of companies invest in trying to solve problems pragmatically and taking into consideration the interests of parties.**

11. I have been informed that **50 law firms** have given the **Mediate First Pledge** and that today we have representatives from **the first group of 40 firms** at this Launch. I would like to congratulate this pioneer group and I am so grateful to see them in this hall today. I would like to encourage parties who are not familiar with mediation to seek out the advice of Mediate First Law Firms and take the opportunity to resolve their disputes **quickly, creatively and more cost effectively**. I do hope that more legal practitioners will come forward and take part in this initiative.

12. I fully recognize that offering to Mediate First is to resist the temptation to litigate as a first step which most of us lawyers were trained to do in law school. I appreciate your Mediate First Pledge and understand that Mediation revenue must be sustainable for

mediation to be effective. It is for this reason; the Government is paying reasonable rates to the experienced PMC-19 mediators as we respect the skill and time of these mediators. This reduces the burden on disputants who want to resolve their matters swiftly.

Ladies and Gentlemen,

13. Allow me acknowledge the **mediation service providers** such as the **Malaysian Bar and Sabah Law Society and Advocates Association of Sarawak** who coordinate parties and mediators in their respective jurisdictions. As of today, we have a group **47 experienced mediators** all over Malaysia to support PMC-19. I thank all the hard working PMC-19 officers and the whole team behind this initiative for continuing to work towards the success of this COVID 19 Mediation Center.

14. I am certain this launch will put a crucial spotlight on the many ways to solve problems and showcase the Mediate First lawyers who are prepared to walk the talk in the Alternative Dispute Resolution (ADR) landscape. I also understand that to support the entire initiative and to promote mediation the government needs to ensure a **conducive**

environment by making sound policy decisions. Therefore, I would like to take this opportunity to ensure all of you that the **Government will consider the extension for Part II of the Temporary Measure for Reducing the Impacts of COVID-19 Act 2020 which will expire on 31 December 2021.** This I believe will provide the opportunity for more parties to come forward and settle their disputes out of court ground.

15. For those who are not familiar with the mediation process to resolve disputes, I encourage you to give it a try. It is without prejudice which means what happens in the privacy of mediation cannot be used in court. With the demands for swift and creative options, I believe that mediation will become one of the most preferred methods to resolve disputes in the future.

16. With the spirit of **KELUARGA MALAYSIA**, I encourage everyone here today to spread this message to seek the appropriate advice to resolve their conflict as we all work together to recover from the COVID-19 crisis. Once again thank you for having me here today and I wish everyone of you the best of luck and congratulations again to the pioneer Mediate First Law Firms

“MEDIATE, DON’T LITIGATE”

Thank you.

YB Dato Sri Dr. Haji Wan Junaidi bin Tuanku Jaafar
Minister in the Prime Minister’s Department (Parliament and Law)