

# **Guardians of the Shield: The Untold Story of Sabah's Legal Profession**

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As the clinking of glasses and the warmth of laughter fill this room tonight, it is easy to forget that the camaraderie we share rests on a hard-won foundation. The legal profession in Sabah is not merely a collection of lawyers. It is a living institution, a constitutional sentinel, and, in many respects, a fortress of identity. Tonight, as we celebrate, let us retrace the arc of our story: from colonial blueprints, to the high-stakes constitutional bargain of 1963, to the quiet but decisive resistance of the 1980s, and finally to the homegrown future we are shaping today.

## **Born of Distinction**

The story begins long before the Malaysia Agreement. In the post-war years, the colonial administration did more than rebuild courts and train lawyers. It deliberately cultivated a local Bar.

Residency requirements were strict, and intentionally so. The practice of law in North Borneo was never meant to be a transient stopover for passing practitioners. It was designed to become a stable vocation rooted in this land and this society. By the early 1960s, the die had been cast: Sabah's legal fraternity would be distinct, independent, and grounded in local realities.

## **Colonial Foundations: Building a Local Profession**

The official reports from the period reveal not only the growth of advocacy, but also the policy choices that shaped it.

- **1947 Annual Report:** The rehabilitation of the courts after World War II restored judicial institutions in North Borneo.
- **1959 Annual Report:** Ten advocates were practising in the Colony: three resident in Jesselton, one in Sandakan, and two in Labuan.
- **1960 Ordinance Amendment:** Admission of non-resident advocates was restricted to foster a local legal profession.
- **1961–1962 Reports:** Residency requirements were reinforced; advocates remained concentrated in Jesselton, Sandakan, and Labuan.

These were not mere administrative conveniences. They were deliberate steps to nurture a homegrown Bar.

### **The 1963 Handshake: The Constitutional Bargain and the Twenty Points**

The 1962 Annual Report recorded the constitutional negotiations that led to the Malaysia Agreement 1963 and the Twenty Points. These negotiations were not abstract political theatre. They were the terms of Sabah's entry into the Federation, and they mattered.

One safeguard in particular anchored Sabah's autonomy: control over entry into the State.

- **Point 10 (Immigration Rights):** This was not only about borders. It was about safeguarding Sabah's ability to shape education, professional development, and the composition of its institutions.

The **Advocates Ordinance (Sabah) 1953** became a federal law under **Article 162 of the Federal Constitution**, yet retained its territorial application. That dual character, federal in status but local in jurisdiction, became Sabah's constitutional firewall against homogenisation.

When Sabah joined Malaysia, we did not simply bring resources. We brought rights. Our Advocates Ordinance was not swept aside. It was fortified. MA63 and the Twenty Points ensured that entry into our profession remained under local control. It was a bargain of autonomy: we joined the Federation, but we kept the keys to our courts firmly in our own pockets.

### **Post-Malaysia Continuity and Quiet Resistance**

On 16 September 1963, Sabah became part of Malaysia. The Sabah Annual Report (1963) recorded six advocates practising locally, four resident in Jesselton and two in Sandakan. Sarawak, Singapore, and Malayan lawyers made occasional appearances, but only with the permission of the court.

Even then, the principle was clear: Sabah's Bar was not an open highway. It was, and remains, a guarded gate.

### **The Dinner That Saved the Bar**

History does not always turn in Parliament or in public declarations. Sometimes, it turns quietly over dinner.

By the 1980s, pressure was mounting to extend the **Legal Profession Act 1976** to Sabah, a move that would have centralised control in Kuala Lumpur and

gradually eroded local authority. Section 2 of the LPA 1976 itself recognised that Sabah and Sarawak were not automatically within its reach:

“The Act shall apply throughout Malaysia but shall only be made applicable to Sabah and Sarawak with such modification as the Yang di-Pertuan Agong may by order make; and such order shall be published in the Gazette.”

In his autobiography *Justice Encounters*, Datuk Ian Chin recounted a remarkable episode: a dinner at the official residence of the then Chief Minister, Harris Salleh. Present were Sultan Azlan Shah (then Lord President), Harris Salleh, his deputy James Ongkili, Nicholas Fung, the State Attorney-General, and Chin himself.

Datuk Ian Chin wrote:

“The topics discussed were the extension of the Legal Profession Act to Sabah and the formation of a single High Court instead of the existing two... Looking back, the whole exercise was to get me to issue a statement that the Sabah Law Association welcomed the extension of the Legal Profession Act to Sabah. It did not happen.”

The political weight in that room was immense. Yet the Sabah Law Association held its ground. No dramatic confrontation. No theatrical protest. Just a refusal to yield.

A planned follow-up meeting in Labuan never materialised, overtaken by events when Sultan Azlan Shah later ascended the throne as Sultan of Perak. But that dinner remains a symbol of the Bar’s quiet resolve.

We did not shout.

We simply held the line.

### ***Tufail v Ting*: The Final Word**

The courts later affirmed what Sabah's lawyers had always known: lawyers from Peninsular Malaysia have no automatic right of audience in East Malaysian courts.

Unless admitted under our local law, or granted specific ad hoc admission, the door remains closed. The decision was a watershed. It confirmed that the Advocates Ordinance is not just "another statute." It is a constitutionally anchored shield.

### **The Gatekeepers: A Narrow Gate, Not a Highway**

Of course, justice sometimes requires specialised expertise. That is precisely why the Ordinance permits limited admission in exceptional circumstances.

But the principle remains constant: **this is a narrow gate, not a highway.**

Our courts have exercised this discretion with care. Admission has been granted in Sabah and Sarawak for respected counsel when circumstances genuinely warranted it. Yet our judiciary has also made an equally important point: local advocates are more than capable of meeting the demands of complex litigation. In cases such as *In Re Marina Tiu*, the court dismissed an application for ad hoc admission, underscoring confidence in Sabah counsel. Even where admission has been allowed, as in *Re Tengku Ahmad Fuad*, the court reiterated that such leave is exceptional, never routine.

The philosophy is clear: we welcome expertise, but we do not outsource our profession.

## **The Homegrown Future: Institutionalising the Shield**

If the 1960s were about creation, and the 1980s were about survival, then the new millennium has been about sovereignty.

For decades, the profession in Sabah operated as a voluntary fraternity under the Sabah Law Association (SLA). The SLA was courageous and vocal, but structurally limited. It relied on moral authority rather than statutory force. It fought for autonomy with one hand tied behind its back.

A lasting future required more than spirit. It required an institution.

The journey to amend the Advocates Ordinance was a marathon, not a sprint. It took years of careful drafting, consultation, persuasion, and persistence. The mission was simple but profound: a self-regulating Bar is not a luxury. It is a cornerstone of a mature democracy.

## **From Association to Society**

On **1 July 2017**, the Sabah legal profession truly came of age. With the enforcement of the amended Ordinance, the **Sabah Law Society (SLS)** was born. This was not merely a change of name. It was a constitutional coming-of-age.

It was the moment Sabah's lawyers became a statutory body with the power to regulate ourselves, discipline our own, and speak with a single, legally recognised voice on matters of justice. We stopped being passengers in the legal administration of this State and became its co-pilots.

## **The Future: Homegrown Defenders**

For generations, Sabah's lawyers were trained abroad or across the sea. But 2025 marks a new dawn with the establishment of the Faculty of Law at Universiti Malaysia Sabah (UMS). This is the final piece of the puzzle.

We are no longer merely defending autonomy. We are building the intellectual infrastructure to sustain it. The next generation of Sabah's legal guardians will be trained here, grounded in Malaysian law, our customs, and the unique constitutional history that shaped us.

A shield is only as strong as the hands that carry it. UMS will help ensure those hands remain steady, capable, and local.

## **A Toast to the Custodians**

As we look around this grand ballroom tonight, we see the result of this journey:

His Excellency Tun Datuk Seri Panglima (Dr.) Musa bin Haji Aman, the Yang di-Pertua Negeri of Sabah;

the Right Honourable Chief Justice of Malaysia;

the Right Honourable President of the Court of Appeal;

the Right Honourable Chief Judge of the High Court in Sabah and Sarawak;

the Right Honourable Chief Judge of Malaya;

the Attorney General;

the Deputy Chief Minister II and Minister of Finance (representing the Chief Minister of Sabah);

distinguished members of the Judiciary and Government;

and to my learned friends, seniors and juniors alike, as well as the bright young pupils who are the promise of tomorrow. This evening is not simply a dinner. It is a living portrait of continuity.

### **A Soggy Start to the Opening of the Legal Year 2026**

On the morning of **16 January 2026**, justice was, quite literally, remarkably soggy. What began as a stately procession from Hakka Hall to the Sabah International Convention Centre along the coastal road quickly devolved into the world's most formal wet-weather march, except with heavy wool gowns and starched collars. As the heavens opened with biblical enthusiasm, the cream of the Sabah and Sarawak Bar underwent a rapid transformation.

Everyone was clad in heavy, black barristers' robes, the sort designed for air-conditioned courtrooms and solemn dignity. In the downpour, they became soaked, clinging, and heavy, turning the procession into a line of very determined, very dignified, very wet penguins migrating through a monsoon.

Yet nobody broke formation. Nobody turned back. The job still had to be done. In his speech at the Opening of the Legal Year 2026, the President of the Sabah Law Society said:

“There is an old song that asks whether we have seen the rain falling under a clear sky. This morning's rainy procession reminded us that such moments exist, and that our profession is defined by how we respond when they do. For us, members of the Sabah Law Society, the Advocates of Sarawak and the Malaysian Bar, we prove that no matter what happens, we stay calm, carry on and finish the job. What matters most in the Opening of the Legal Year is not the parade, especially not today's rainy walk, but the reflection and accountability that must follow.”



It was a perfect metaphor. The work of justice is not always comfortable. It is not always convenient. But it is always necessary.

### **The Shield We Carry**

Sabah's autonomy is not an abstract legal concept to be debated only in textbooks. It is lived daily in our courts, safeguarded by the Sabah Law Society, and reaffirmed by every practitioner who stands up to speak for a client, to argue a point of law, or to defend the rule of law.

We are custodians of a legacy that is both constitutional and deeply personal. So tonight, raise a glass: to the past that defined us, and to the future we are building.

To the guardians of the shield, salute.