

Unshackling the Prosecutor: A Comparative Analysis of Prosecutorial Independence and Reform in Malaysia, England and Wales and India

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ABSTRACT

The institutional integration of state legal counselling and public criminal prosecution into the single office of the Malaysian Attorney-General (AG) has long constituted a profound structural vulnerability. Entrenched under Article 145(3) of the Federal Constitution, this dual mandate created an inherent conflict of interest that systematically undermined public confidence in the administration of justice. In light of the recent historic passage of the Constitution (Amendment) (No. 2) Bill 2026, this paper examines the procedural, constitutional, and structural implications of decoupling these legal roles. Utilising a comparative legal methodology, this study analyses the functional firewall of England and Wales's bifurcated executive model and the rigid structural separation in India's decentralised prosecution system to identify institutional mechanisms that prevent executive overreach. It highlights how the active 2026 reforms successfully address previous systemic gaps by establishing an independent Office of the Public Prosecutor under a new Article 145A. Ultimately, this paper demonstrates how Malaysia's legal transformation operationalises a multi-layered, merit-based appointment framework, guarantees tenure security, provides financial autonomy, and mandates parliamentary accountability, thereby shifting the domestic reform trajectory from initial policy advocacy to subsequent statutory implementation and institutional safeguarding.

Keywords: Separation of Powers, Attorney-General, Public Prosecutor, Malaysia, Constitutional Reform, Comparative Jurisprudence.

INTRODUCTION

The foundational doctrine of the separation of powers holds that concentrating disparate constitutional functions within a single office creates structural vulnerability, threatening both institutional integrity and public confidence. Within Commonwealth legal frameworks, this vulnerability is most pronounced when the roles of the chief executive legal advisor and the supreme public Prosecutor are combined in a single individual. In Malaysia, this structural fusion has been constitutionally entrenched under Article 145(3) of the Federal Constitution, which designates the Attorney-General (AG) as the Public Prosecutor and grants the AG absolute and unreviewable discretion to initiate, conduct, or discontinue criminal proceedings (Sokri, 2026).

Consequently, the AG must balance two contradictory mandates: acting as a political appointee tasked with counselling the executive branch, while simultaneously serving as an impartial minister of justice duty-bound to enforce criminal law without fear or favour (Abu Bakar, 2015). When these distinct mandates merge, an inherent conflict of interest arises, particularly in the prosecution of politically sensitive or high-profile corruption cases (Sokri, 2026).

Historically, the structural overlap of executive influence and prosecutorial authority has exposed the Malaysian criminal justice system to allegations of selective prosecution and political interference. Legal scholars have

noted that this "two hats on one head" architecture systematically transfers legitimacy deficits from executive actors to the judiciary, compromising the perceived impartiality of eventual trial outcomes even when handled by independent judges (Sokri, 2026). This tension became acutely visible following the watershed political shifts of 2018, where high-profile financial scandals exposed the fragility of an undivided prosecutorial office and catalysed widespread public demand for structural separation (Foo, 2019).

Globally, empirical comparative evidence confirms that prosecutorial independence is a vital precondition for government accountability and the rule of law; without operational autonomy from executive control, criminal enforcement risks devolving into an instrument of political pragmatism rather than objective justice (Gutmann & Voigt, 2019). In response to long-standing systemic critiques, Malaysia's reform trajectory reached an unprecedented constitutional inflexion point with the tabling of the *Constitution (Amendment) (No. 2) Bill 2026* (Weiss, 2024).

This paper examines the constitutional architecture governing the Malaysian prosecutorial framework. It evaluates the ongoing institutional efforts to decouple these roles, integrating recent bipartisan adjustments finalised by the Parliamentary Special Select Committee (PSSC) on June 22, 2026 (The Star, 2026b). The paper begins with an introduction that outlines the shortcomings of the current legal framework and situates the debate within Malaysia's constitutional context. The second section sets out the qualitative and doctrinal methodology adopted for the study.

The third section explores the legal position before the 2026 Amendment, highlighting the tensions created by the duality of the Attorney-General's advisory and prosecutorial roles and the resulting impetus for reform. The fourth section synthesises the major themes of criminal procedure reform, particularly regarding the separation of powers. The fifth section turns to comparative perspectives, examining the institutional models of England and Wales and India and identifying lessons Malaysia may draw from these jurisdictions. Finally, the concluding section distils the analysis into four policy recommendations to strengthen prosecutorial independence and enhance constitutional safeguards.

METHODOLOGY

This study adopts a purely doctrinal or "black-letter" legal research methodology, combined with a comparative legal analysis framework. Rather than examining empirical or sociological data, doctrinal legal research focuses on an internal, systematic analysis of the law itself as a cohesive body of rules, principles, and statutory doctrines (McConville & Chui, 2017). This method is particularly appropriate for this study because it enables a critical evaluation of the structural, constitutional, and statutory provisions governing prosecutorial power and executive overreach (Hutchinson & Duncan, 2012).

The research is executed through a two-stage qualitative process:

1. **Primary Source Analysis:** The core of the inquiry involves a rigorous textual evaluation of primary legal authorities. For the Malaysian context, this includes an examination of Article 145 of the Federal Constitution, Section 376 of the Criminal Procedure Code (CPC), and the statutory provisions of the Constitution (Amendment) (No. 2) Bill 2026.
2. **Secondary Source Synthesis:** To contextualise these primary texts, the study synthesises secondary legal literature. This process includes peer-reviewed law journals, authoritative textbooks, judicial review jurisprudence, and formal position papers issued by the Malaysian Bar and law reform committees.

To evaluate the potential efficacy of Malaysia's 2026 legislative reforms, this doctrinal baseline is integrated with a micro-comparative legal framework. Comparative legal analysis serves as a tool for law reform by enabling researchers to examine how different jurisdictions resolve identical structural dilemmas (Hutchinson, 2015).

This paper contrasts Malaysia's fused institutional model with the *functional bifurcated executive model* of England and Wales (focusing on the statutory architecture of the Crown Prosecution Service and the

conventional boundaries of the Shawcross Doctrine) and the *strict constitutional separation* model of India (anchored in Article 76 of the Constitution of India and Section 25A of the Code of Criminal Procedure). These jurisdictions were chosen based on three explicit criteria:

1. **Shared Legal Heritage:** Both jurisdictions share a common law foundation with Malaysia, ensuring doctrinal comparability and interpretive resonance (Lee, 2017).
2. **Contrasting Institutional Models:** England & Wales exemplifies a functional bifurcation model (Stenning, 2009). India, by contrast, enforces a structural separation under Article 76 of its Constitution, decentralising prosecution through state-level Directorates of Prosecution (Farooqui, 2025).
3. **Relevance to Reform Trajectories:** England & Wales demonstrates the limits of unwritten conventions in safeguarding prosecutorial independence, while India illustrates the strengths and weaknesses of rigid structural separation. Together, these models offer Malaysia lessons in balancing autonomy, accountability, and administrative efficiency (Amirthalingam, 2019; Yarragudi, 2024).

By analysing these distinct statutory arrangements, this methodology identifies structural firewalls and systemic vulnerabilities, providing a principled, reform-oriented blueprint for the future of Malaysia's criminal procedure infrastructure.

The Pre-Constitutional Amendment (No 2) Bill 2026 Legal Position: Structural Fused Power

The institutional integration of state legal counselling and public criminal prosecution within the AG's office is among the most contentious constitutional arrangements in contemporary Malaysian governance. This structural duality was principally anchored in Article 145(3) of the Federal Constitution, which dictated that the AG shall have the power, exercisable at his discretion, to institute, conduct, or discontinue any proceedings for an offence (Sokri, 2026). This constitutional mandate was further reinforced by Section 376(1) of the Criminal Procedure Code (CPC), which formally designated the AG as the Public Prosecutor and explicitly granted him control and direction over all criminal prosecutions and proceedings under the Code.

Legal scholars note that the vastness of this authority, paired with historically minimal judicial oversight, effectively established a form of unreviewable prosecutorial hegemony within the domestic criminal procedure system (Hamid, 2023). Because the AG acted simultaneously as the Prime Minister's primary legal advisor and the supreme arbiter of public prosecutions, the office was structurally prone to systemic tensions in which political loyalty and independent ministerial duties inevitably collided (Abu Bakar, 2015).

This structural framework produced an unavoidable legitimacy deficit that systematically undermined public confidence in the administration of justice. The core institutional flaw did not necessarily stem from personal malfeasance by individual officeholders, but rather from the "two hats on one head" architecture itself. As a political appointee serving at the executive branch's pleasure, the AG routinely faced profound conflicts of interest when handling investigations involving state actors, high-ranking public officials, or political allies (Hong, 2018).

When high-profile financial corruption or political trials culminated in unexpected Discharges Not Amounting to an Acquittal (DNAA), public perception frequently attributed these outcomes to executive interference rather than objective evidentiary assessments (Sokri, 2026). This dynamic created a legitimacy crisis rooted in process, as the perceived partiality of the initial prosecutorial decision directly eroded the public trust ultimately placed in the entire trial court process, regardless of how impartial or independent the presiding judges might be (Sokri, 2026).

Following the pivotal 1988 constitutional amendments, which stripped the judiciary of its inherent "judicial power of the Federation" under Article 121(1) and made court jurisdiction dependent on federal statutory law, the traditional checks and balances designed to temper prosecutorial overreach were severely weakened (Power, 2010). Efforts to challenge the AG's absolute prosecutorial discretion through judicial review have historically

faced strict jurisprudential hurdles, with local courts frequently affirming that such powers are largely immune from judicial interference unless clear bad faith or unconstitutionality can be proven (Hamid, 2023).

When the *Constitution (Amendment) (No. 2) Bill 2026* was initially introduced on February 23, 2026, civil society groups and legal experts quickly pointed out lingering loopholes. Early critiques from the Malaysian Bar (2026b) and Bersih (2026) noted that the original text lacked a clear mechanism for parliamentary oversight, permitted potential term extensions that exposed the office to political influence, and did not fully separate the roles in secondary legal bodies, such as the Pardons Board. These gaps necessitated its referral to a Parliamentary Special Select Committee (PSSC) for rigorous cross-party restructuring (Eu SEE, 2026).

Key Reforms And Themes Under The Amendment Act

The integrated structural architecture finalised by the PSSC on June 22, 2026, builds concrete legal firewalls across four core procedural and operational themes to resolve the historical overlap of powers (Azalina, 2026):

Implementing a Multi-Layered, Merit-Based Appointment Process

To permanently eliminate centralised executive command, the reform completely bars the Prime Minister or Cabinet from selecting the independent Public Prosecutor (Dusuki, 2026). This theme is explicitly codified under the new constitutional layout:

Article 145A. Public Prosecutor (1) There shall be a Public Prosecutor who shall be appointed by the Yang di-Pertuan Agong, acting on the advice of the Judicial and Legal Service Commission. (2) The candidate recommended by the Judicial and Legal Service Commission under Clause (1) shall be presented to Parliament for review prior to the appointment by the Yang di-Pertuan Agong.

By linking the appointment strictly to institutional sourcing from the Judicial and Legal Service Commission (SPKP) and adding a mandatory disclosure clause for parliamentary review, the law ensures that cross-party vetting and public feedback filter the selection process before formal confirmation (Azalina, 2026; Perian, 2025).

Safeguarding Security of Tenure and Financial Autonomy

To ensure that the independent Public Prosecutor can investigate and charge state actors without fear of sudden retaliatory dismissal, the law grants the officeholder a single, unyielding tenure block and judicial-level protections (Ideas, 2024; Aliran, 2026):

(4) The Public Prosecutor shall hold office for a fixed term of seven years and shall not be eligible for reappointment or renewal of tenure upon expiry of the said term. (5) In the exercise of his powers and functions under this Constitution or any other written law, the Public Prosecutor shall act independently and professionally, free from any executive control or external influence.

(6) The Public Prosecutor shall be subject to a specific Code of Ethics. Any established breach of the Code of Ethics or misbehaviour shall constitute grounds for removal from office, subject to an inquiry by a tribunal established in accordance with Article 125 for a Judge of the Federal Court.

Barring automatic renewals prevents the officeholder from modifying prosecutorial priorities to please the executive and secure a contract extension (Azalina, 2026). This operational firewall is reinforced by independent budgeting separate from executive civil lines (The Star, 2025).

Constructing Explicit Accountability and Oversight Mechanisms

To prevent the independent Public Prosecutor from operating in a constitutional vacuum or accumulating unchecked power, the PSSC embedded direct oversight links back to the legislature (Hamid, 2023; Malaysian Bar, 2026a):

(7) The Public Prosecutor shall prepare and submit an annual report on the administration of public prosecutions and criminal proceedings directly to Parliament.

This statutory mandate provides a forum for bipartisan review, enabling cross-party parliamentary select committees to scrutinise prosecution metrics, guidelines, and resource constraints without compromising individual trial files (Aliran, 2026).

Restoring Public Legitimacy and Addressing Procedural Legacies

The ultimate goal of the reform is to address the process-based legitimacy deficit that previously plagued trial courts during controversial DNAAAs (Sokri, 2026). This independent authority is anchored in the core powers provision:

(3) The Public Prosecutor shall have power, exercisable at his discretion, to institute, conduct, or discontinue any proceedings for an offence, other than proceedings before a Syariah court, a native court, or a court-martial.

Placing sole discretion over criminal indictments and white-collar enforcement tools—such as Deferred Prosecution Agreements (DPAs)—in an isolated, professional office guarantees that cases are evaluated solely against evidential standards and objective public interest rather than political expediency (Bersih, 2026; Sopah et al., 2026).

Comparative Models: England And Wales And Indian Legal Frameworks

The comparative evaluation of prosecutorial independence across England & Wales, India, and Malaysia reveals distinct constitutional philosophies and operational realities shaped by each jurisdiction's historical evolution, administrative culture, and political context. While all three share a common law heritage, their institutional trajectories diverge sharply in how they balance autonomy, accountability, and executive influence.

England and Wales: The Bifurcated Executive and the Shawcross Doctrine

The modern British model was established by the Prosecution of Offences Act 1985, which stripped the police of their unilateral power to prosecute and established the independent Crown Prosecution Service (CPS), led by the Director of Public Prosecutions (DPP). This bifurcated executive model separates political governance from the daily machinery of criminal procedure. While the Attorney General for England and Wales remains a political appointee and a member of the government, the actual initiation and conduct of criminal trials are legally vested in the Director of Public Prosecutions (DPP), who oversees the CPS (Abu Bakar, 2015). The Shawcross Doctrine governs this functional firewall. This constitutional convention establishes that, while the Attorney General may consult cabinet colleagues regarding cases with serious national security or public-interest implications, the final prosecutorial determination must remain strictly insulated from political pressure (Stenning, 2009).

The British framework successfully establishes a structural wall between political governance and criminal justice. By shifting the power to charge and prosecute away from investigative authorities (the police) to an objective, specialised legal body, it introduces a vital institutional check-and-balance (Sanders, 2018). Prosecutorial decisions are stringently bound by the Code for Crown Prosecutors, which enforces a transparent, two-stage evaluation: the evidential stage and the public interest stage. This situation minimises arbitrary or politically motivated indictments.

Despite its reputation, the UK model features inherent structural ambiguities. Under Section 2 of the 1985 Act, the DPP remains under the "superintendence" of the Attorney General - a political appointee and Cabinet member (Legislation.gov.uk, 1985). This vague concept of superintendence can create operational friction and spark public scepticism during high-profile political or state security prosecutions. Furthermore, the system experiences severe operational strains. Chronic underfunding, severe court backlogs, and systemic friction between the police and the CPS regarding the threshold of evidence required to initiate charges frequently stall the machinery of justice (Wall, 2020).

Another significant vulnerability of this model is that when the government hides behind a veneer of prosecutorial independence to influence decisions involving broader national interests, the doctrine's boundaries are severely strained (Amirthalingam, 2019). The milestone litigation in *R (Corner House Research) v. Serious Fraud Office* exposed this structural fragility, demonstrating that even within highly evolved common law traditions, executive assertions of national security can directly strain prosecutorial autonomy (Amirthalingam, 2019).

The Indian Framework: Structural Separation and Decentralised Prosecution

In contrast to England and Wales' conventional approach, India enforces a strict separation of powers under its Constitution. Under Article 76 of the Constitution of India, the Attorney-General serves strictly as the chief legal advisor to the Union Government, representing the state in civil litigation and having no inherent authority over public criminal prosecutions (Farooqui, 2025). Instead, criminal procedure is structural and decentralised. Under Section 25A of the Code of Criminal Procedure (CrPC), which was recently updated via the *Bharatiya Nagarik Suraksha Sanhita* (BNSS), the administration of criminal law is explicitly distributed through independent state-level Directorates of Prosecution (Farooqui, 2025; Yarragudi, 2024). This decentralisation prevents the central executive from co-opting criminal prosecution as a political instrument, thereby reinforcing the rule of law and the guarantees of due process under Article 21.

The primary strength of the Indian model lies in its robust judicial safeguards. The Indian Supreme Court has consistently reinforced this independence, ruling that investigators and prosecutors must operate within clear boundaries to ensure due process under Article 21 of the Constitution (Farooqui, 2025). The Supreme Court of India has consistently acted as an institutional shield against political overreach. In the seminal case of *Vineet Narain v. Union of India (1997)*, the apex court issued sweeping directives to insulate investigative and prosecutorial agencies (such as the Central Bureau of Investigation) from executive interference, establishing fixed tenures and objective appointment criteria (Naya Legal, 2026).

Nonetheless, despite structural separation, the practical realities of the Indian legal ecosystem often undermine its structural ideals. Informal executive encroachment remains a persistent issue; governments frequently exert pressure in sensitive political cases through tactical civil service transfers, targeted budgetary allocations, and delayed appointments (Supreme Court of India, 2026).

Contextually, India suffers from extreme systemic fractures, characterised by an overwhelming backlog of millions of cases, uneven resource allocation, coordination challenges between police and prosecutors and decades of judicial delay (Yarragudi, 2024). Furthermore, coordination between state police forces and the independent Directorates of Prosecution is highly fragmented, resulting in low conviction rates and diminished public trust (Yarragudi, 2024). Below is a comparative matrix of the current models of the Prosecutor in these jurisdictions, along with an analysis of the reforms in Malaysia.

Table 1: Annotated Comparative Matrix: Prosecutorial Independence Models

Dimension	Malaysia (Pre-2026 & Post-Reform)	England & Wales	India	Analytical Caption
Legal Heritage	Common law, fused AG–PP roles under Art. 145(3); post-2026 reform introduces Art. 145A: Creating an independent Public Prosecutor	Common law, bifurcated model; AG political appointee, CPS led by DPP	Common law with constitutional codification; AG is a strictly legal advisor, and prosecution is decentralised via CrPC Section 25A	Malaysia shares common law roots but diverged by fusing roles; reforms realign with comparative Commonwealth traditions.
Institutional Model	Pre-2026: fused advisory + prosecutorial powers;	Functional separation: CPS independent, AG retains advisory	Structural separation: AG has no prosecutorial powers; state-level	Malaysia's reform shifts from fusion to separation; England relies on conventions,

	Post-2026: statutory separation with independent PP	role; governed by Shawcross Doctrine	Directorates of Prosecution manage cases	and India codifies strict separation.
Appointment & Tenure	Pre-2026: AG appointed by executive, no fixed tenure; Post-2026: PP appointed via Judicial & Legal Service Commission, parliamentary vetting, fixed 7-year non-renewable term	DPP appointed, CPS operates independently; AG remains a political appointee	AG appointed by the President; prosecutors appointed at the state level; decentralised appointments.	Malaysia's fixed tenure and merit-based vetting reduce executive influence, learning from India's decentralisation and England's CPS independence.
Oversight & Accountability	Pre-2026: minimal oversight; Post-2026: annual PP report to Parliament, Code of Ethics, tribunal removal mechanism	Oversight via conventions; AG may consult Cabinet, but CPS decides; vulnerable in national security cases	Oversight through the judiciary; decentralisation ensures checks but risks inefficiency	Malaysia's parliamentary reporting adds statutory oversight, stronger than England's conventions, but must avoid India's coordination bottlenecks.
Strengths	Post-2026: statutory independence, merit-based appointment, tenure security, financial autonomy, parliamentary accountability	Clear functional firewall between AG and CPS; CPS professionalised	Strong structural separation; decentralisation prevents central executive capture	Malaysia's reforms combine statutory safeguards with accountability, aiming to balance England's professionalism and India's separation.
Weaknesses	Pre-2026: legitimacy deficit, selective prosecution; Post-2026: risks of internal bias in Judicial & Legal Service Commission, need for OPPA enabling legislation	Reliance on unwritten conventions; vulnerable to executive claims of national security	Administrative bottlenecks, high case pendency, and coordination challenges	Malaysia must guard against internal bias and ensure enabling legislation, while England shows risks of conventions, and India warns of inefficiency.
Lessons for Malaysia	Codify reforms in OPPA; strengthen SPKP vetting protocols; insulate DPA guidelines	Statutory codification is stronger than conventions; avoid reliance on political restraint.	Ensure adequate funding, streamline coordination, and prevent paralysis	Malaysia's path forward requires codification, transparent vetting, and operational efficiency to sustain independence.

Lessons for Malaysia from England and Wales

Below is a critical synthesis of lessons that Malaysia can learn from the prosecutorial systems of England and Wales in navigating its constitutional divide:

1. Codification over convention: England's reliance on the Shawcross Doctrine (an unwritten convention) shows that functional separation can be undermined when political actors invoke "national interest" or national security. Malaysia's reforms wisely codify prosecutorial independence in Article 145A, avoiding the fragility of conventions.
2. Professionalisation of prosecution services: The Crown Prosecution Service (CPS) demonstrates how a dedicated, professional prosecutorial body can enhance consistency and fairness. Malaysia should invest in building a similarly professionalised Office of the Public Prosecutor (OPP) with clear guidelines, training, and institutional culture.
3. The risk of executive shadow influence: Even with separation, England's Attorney General remains politically appointed and can exert indirect influence. Malaysia must ensure its new Public Prosecutor is insulated from political patronage through transparent vetting and parliamentary oversight.

Lessons From India For Malaysia

1. Structural clarity: India's model constitutionally separates the Attorney General (legal advisor) from prosecutorial functions, leaving no ambiguity. Malaysia's Article 145A mirrors this clarity, ensuring the AG no longer wears "two hats."
2. Decentralisation safeguards independence: India's state-level Directorates of Prosecution prevent the central executive from capturing them. Malaysia can adapt this by ensuring regional prosecutorial offices have autonomy, reducing over-centralisation in Putrajaya.
3. Administrative efficiency matters: India's decentralisation has led to case backlogs, uneven resources, and coordination problems. Malaysia must avoid replicating these inefficiencies by ensuring adequate funding, streamlined case management, and strong coordination between prosecutors and enforcement agencies.
4. Judicial reinforcement: India's Supreme Court has consistently upheld prosecutorial independence under Article 21 (due process). Malaysia's judiciary must likewise play a proactive role in safeguarding prosecutorial autonomy against executive encroachment.

CONCLUSION

As discussed throughout this paper, Malaysia's prosecutorial system historically embodied the fusion of executive and prosecutorial authority under Article 145(3) of the Federal Constitution, in which the Attorney General served as both the Attorney General and the Public Prosecutor. This dual mandate created persistent legitimacy deficits, particularly in politically sensitive cases (Abu Bakar, 2015; Hamid, 2023). However, the *Constitution (Amendment) (No. 2) Bill 2026*, which introduces Article 145A, marks a decisive shift toward statutory independence, establishing an autonomous Public Prosecutor appointed by the Judicial and Legal Service Commission (SPKP) with parliamentary vetting and a fixed tenure (Azalina, 2026).

Critically, England & Wales demonstrates that professionalism without codification leaves independence exposed to political discretion, while India proves that structural separation without administrative coherence can hinder efficiency. Malaysia's 2026 constitutional reform bridges these models by codifying prosecutorial autonomy under Article 145A, introducing transparent appointment mechanisms, and mandating parliamentary accountability (Azalina, 2026; Malaysian Bar, 2026b). The reform's success, however, hinges on the enactment of the Office of the Public Prosecutor Act (OPPA), ensuring transparent SPKP vetting to prevent internal bias and on cultivating a professional prosecutorial culture free from executive influence. By integrating statutory independence with institutional oversight, Malaysia positions itself as a regional exemplar of constitutional resilience - transforming its prosecutorial architecture from a politically contingent system into a *merit-based, accountable, and constitutionally protected institution* (Abu Bakar, 2015; Hamid, 2023; Gutmann & Voigt, 2019).

Policy Reform Roadmap

Now that the overarching constitutional amendments are structurally integrated, the state's enforcement priorities must shift from advocating for a split toward operationalising and safeguarding the newly codified machinery:

Enact a Comprehensive Office of the Public Prosecutor Act (OPPA): Parliament must immediately move to pass the accompanying OPPA (Malaysian Bar, 2026b). This enabling statutory legislation is required to build the physical infrastructure, govern the systematic transfer of pending criminal files from the Attorney General's Chambers, and protect the institutional seniority of civil service prosecutors transferring to the newly independent prosecution department.

Standardise Transparent Vetting Protocols Within the SPKP: Because the Prime Minister and Cabinet have been completely stripped of appointment powers under Article 145A(1), the risk of bias shifts internally to the nominating body (Dusuki, 2026). The SPKP must publish clear evaluation criteria for potential nominees and require a transparent ranking system based on litigation experience, professional integrity, and lack of political alignment to prevent backroom favouritism (Azalina, 2026; Perian, 2025).

Formulate Parliamentary Standing Orders for Nominee Vetting and Report Debates: To prevent the parliamentary disclosure requirement under Article 145A (2) from becoming political theatre, the Dewan Rakyat must update its Standing Orders (Bersih, 2026). Clear rules must be set for how the cross-party select committee will review the SPKP's nominees, protect candidate privacy, and schedule debates on the mandated annual prosecution reports without infringing upon active court proceedings (Azalina, 2026).

Insulate Pre-Trial Corporate Enforcement and DPA Guidelines: As Malaysia incorporates sophisticated anti-corruption mechanisms under Section 145A(3), the independent Public Prosecutor should publish an explicit Code of Practice for Deferred Prosecution Agreements (Sopah et al., 2026). These guidelines must mandate full disclosure of corporate penalties and require final judicial confirmation to ensure white-collar enforcement tools are used transparently and are never co-opted as mechanisms for political leniency (Bersih, 2026).

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