KEMENTERIAN TENAGA DAN SUMBER ASLI

KERATAN SURAT KHABAR

SURAT KHABAR	:	THE STAR			
TARIKH	:	9/11/2021 (SELASA)	MUKA SURAT	:	13
JABATAN	:	KeTSA/ JPSM			

Your opinion

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Forest degazettement improper?

WE refer to the ongoing controversy regarding the status of the Bukit Cherakah Forest Reserve in Section U10, Shah Alam. Various NGOs and civil society groups are protesting plans to develop parts of the forest reserve.

Selangor state executive councillor Hee Loy Sian commented on the matter on Oct 23, emphasising that the reserve has been excised (colloquially referred to as "degazetted"), with land titles issued to private developers, and that it had been degazetted without any notice being published. He is reported to have said, "If the said plots of land had not been degazetted, land titles could not be issued", and "The NGOs should ask the previous state government about the move to degazette the land and why a notice was not published" ("Hee: Developers hold land titles for plots of Shah Alam forest reserve", *The Star*; online at bit.ly/star_reserve).

The law relating to forest reserves is the National Forestry Act 1984 and the respective state enactments. Section 13(1) of the Act stipulates that whenever any land is excised from a permanent reserved forest, the state authority shall cause to be published in the *State Government Gazette* a notification setting out the details of such land and declaring a fixed date when it shall cease to be a permanent reserved forest.

Section 13(2) follows up with the provision that the land shall cease to be a permanent reserved forest from the fixed date.

It is not disputed that there is no such publication of the purported excision of the forest in the Selangor *State Government Gazette*. Hence, as long as a permanent reserved forest has not been excised through the publication of a notice in the Gazette, the subject land – in this case, the Bukit Cherakah Forest Reserve in Section U10 – continues to be a permanent reserved forest.

The Malaysian Bar is therefore deeply concerned by the Selangor state government's position as expressed by Hee. This case highlights fundamental legal issues. The state government must demonstrate its commitment to the rule of law. It cannot refer to the *de facto* position (that land titles have been issued to private developers) as a determination of the *de jure* position, ie the legal status of the land. It is no answer to concerned members of the public that the purported excision was carried out by the previous administration.

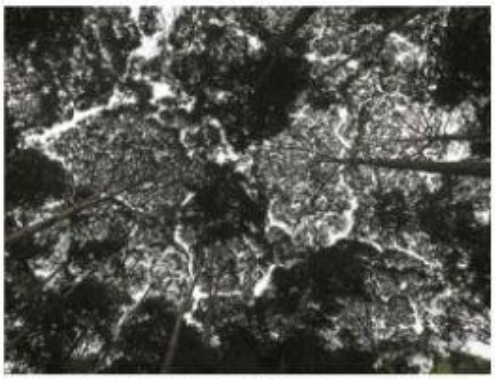
Besides the issues of good governance, accountability and transparency, this issue also relates to the sustainable management of our natural environment.

On Oct 8, the United Nations Human Rights Council (UNHRC) recognised for the first time that having a clean, healthy and sustainable environment is a human right ("Access to a healthy environment, declared a human right by UN rights council"; online at bit.ly/unhcr_rights).

Further, Malaysia was recently elected to the UNHRC for the 2022–24 term, with the Prime Minister announcing that, "Malaysia will work closely with UN member states to advance the global human rights agenda, as enshrined in the Universal Declaration of Human Rights". It is therefore imperative that we lead by example.

The Malaysian Bar calls on the Selangor state government, and indeed all state governments, to approach any excision of permanent reserved forests conscientiously and vigilantly, in order to protect the human rights of present and future generations. State governments must act as the protector and custodian of nature and not be a facilitator of its destruction. Where the due process of excision of any permanent reserved forests has not been followed, the state must take the position that the status of the land remains protected.

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At risk: An image of the amazing crown shyness pattern created by the many kapur trees present in Bukit Cherakah Forest Reserve. – ZAHARIL DZULKAFLY/The Star