

## DATA-DRIVEN GOVERNANCE IN MALAYSIA: ALIGNING AI USE WITH PUBLIC POLICY AND ADMINISTRATIVE LAW PRINCIPLES

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### *Abstract*

As many countries race to adapt as quickly as possible to the revolving and increasing reliance on AI in public sector decision making, so is Malaysia. Within the last decade, we have seen initiatives like the *National AI Roadmap 2021-2025* and the *MyDigital Blueprint* set forth as the first steps to a foundation for a data-driven governance model. In an attempt to do so, many complex legal and ethical challenges threaten to seep into its process. As such, we risk diminishing core administrative values like transparency, proportionality, and procedural fairness by allowing unaccountable algorithmic processes to occur. This paper will explore the intersection between AI governance and administrative law in Malaysia and assess the impact of the incorporation of AI into the managing and development of our legal system, as well as argue that the adoption of AI in public administration has to be guided by these fundamental public law values to maintain legal accountability. It will also examine the legal and political implications of AI deployment in the Malaysian public administration where systems are increasingly used in domains such as welfare targeting, immigration, traffic enforcement and smart city management, as well as further examining the adequacy of our current legal frameworks like the **Personal Data Protection Act 2010 (PDPA)** in relation to addressing such challenges brought forth by the reimagining of Malaysia's legal landscape with AI. Using comparative insights from similar and larger jurisdictions like Singapore, UK and the EU, this paper will also assess and highlight examples of good governance over the embedding of AI in the public sector that Malaysia could incorporate as we develop such a system. It will propose legal safeguards our country can take, such as mandated algorithmic transparency obligations,

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respective assessments and public consultation mechanisms to ensure AI is integrated in respect to constitutional values.

## **1. INTRODUCTION**

Artificial intelligence (AI) is rapidly becoming one of the most essential assets for personal, commercial and administrative purposes, provided it is used with caution and responsibility. Recounting the earlier days of being a pre-university student recalls a vivid memory of when the AI module, more commonly known as ‘ChatGPT,’ first popped up on the market. Now looking back on what seemed like a momentous occasion and turn in the events of technology now seems like a small dot in history when we think about the likes and wonders of what AI can do today, extending far beyond educational or workplace assistance. From helping students sum up lengthy lecture slides to generating code, to a larger, commercial scale of data analysis, customer service chatbots, all the way to a national scale of health surveillances, traffic and city management, and even judiciary sentencing, the rapid evolution from everyday educational tools to state and national level administrative mechanisms underscores a crucial challenge: ensuring that AI’s deployment remains aligned with legal and ethical standards. It is one thing for a student to use AI to cheat by using it to write its assignments, but more pressing matters continue to arise as issues like deepfakes, security breaches, personal data leaks occur more and more frequently, which threatens to increasingly affect society at large. Against this backdrop, two key questions then emerge: how does Malaysia’s current laws and policies regulate the adoption of AI, and how does the government’s own use of AI in administration reflect, or even risk undermining core administrative principles of transparency, proportionality, and legitimate expectation?

## **2. LITERATURE REVIEW AND ANALYTICAL FRAMEWORK**

As this paper intends to align AI use with public policy and administrative law principles, we will first delve into the expansion and analysis on the current framework and existing global debates on AI and administrative law.

### **2.1. AI, GOVERNANCE AND THE PUBLIC LAW CHALLENGE**

Many scholars widely recognise that AI promises administrative efficiency, yet introduces risks as to the aspect of accountability.

In Burrell's paper on '*How the Machine "Thinks"*', it is identified that machine learning algorithms are being increasingly used in decisions with social repercussions, such as credit scoring, spam filters, search engines and many more. She identifies three forms of opacity (better known as a lack of transparency) – *intentional secrecy, technical illiteracy, and the complexity of machine learning itself*. With *intentional secrecy*, there is a lot of corporate/state protection of trade secrets in place to avoid regulation.<sup>1</sup> When it comes to the *technical terms*, many people (and even some professionals) belonging to the general public cannot read nor understand code – a point which would prove transparency almost redundant anyway if the majority of the population is unable to understand in layman terms.<sup>2</sup> In situations where there is no corporate secrecy and the observer is technically literate, machine learning systems can still remain opaque due to how they function at scale, stemming from a *mismatch between mathematical and statistical optimisation*, or more simply put, how the machine 'thinks', misaligning with *human reasonings or semantic interpretation*, as to how humans make sense of decisions.<sup>3</sup> Wachter, Mittelstadt and Floridi argue that even in developed data-protection regimes, there is no independent, legally enforceable "right to explanation" of automated decisions, which then suggests that transparency must be put into action through other accountability mechanisms.<sup>4</sup> In the context of the public sector, Cobbe's article shows how automation can frustrate judicial review unless administrators preserve records and reasons that remain sufficient to enable courts to evaluate legality, rationality, and procedural fairness.<sup>5</sup> While these debates emerge in other jurisdictions, they all highlight a universal challenge: technical fixes alone cannot secure accountability. These debates justify not just a technical but also a legal framework for assessing Malaysia's policies and its current AI use in its administrative system. For Malaysia, this highlights the need to assess AI

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<sup>1</sup> Jenna Burrell, 'How the Machine "Thinks": Understanding Opacity in Machine Learning Algorithms' (2016) 3(1) *Big Data & Society* 1-12.

<sup>2</sup> *Ibid*, pg 4.

<sup>3</sup> *Ibid*, pg 5.

<sup>4</sup> Sandra Wachter, Brent Mittelstadt and Luciano Floridi, 'Why a Right to Explanation of Automated Decision-Making Does Not Exist in the GDPR' (2017) 7(2) *International Data Privacy Law* 76.

<sup>5</sup> Jennifer Cobbe, 'Administrative Law and the Machines of Government: Judicial Review of Automated Public-Sector Decision-Making' (2019) 39(4) *Legal Studies* 636.

governance through a legal and regulatory lens, both in shaping national policy, and evaluating sectoral employment of AI.

## **2.2. ADMINISTRATIVE PRINCIPLES: TRANSPARENCY, PROPORTIONALITY, AND LEGITIMATE EXPECTATION**

Building upon the global debates outlined above, we now look at it in the Malaysian context, assessing through established principles of administrative law. Transparency, proportionality and legitimate expectation are not just the main, functional perimeters of administrative practice, but are also important in providing us a coherent framework to guide us on how we can continue to evaluate AI policies to align them with the rule of law.

Firstly, transparency functions as the first step to accountability. Decisions made by the administration must be available to be scrutinised by the public, and especially by field professionals. This allows for affected individuals to understand how outcomes are reached, and more importantly, whether the process undertaken to arrive at said outcome complies with legal standards.<sup>6</sup>

In the AI context, opacity, whether stemming from algorithmic complexity, illiteracy or a lack of disclosure, risks undermining this basic need for accountability.<sup>7</sup> Going as far as to evaluate from a judicial standpoint, judicial review is weakened in the absence of sufficient explainability as courts would not be able to meaningfully assess whether discretion was exercised lawfully. This concern has been recognised in comparative debates, such as the **EU's AI Act** proposals that require 'explainability design'. In Malaysia, digital governance initiatives like **MyDigital Blueprint** and the **National AI Roadmap** envisions wide public sector deployment with AI use, however, insufficient transparency risks eroding the public's confidence in administrative fairness.

Secondly, once transparency permits scrutiny, proportionality can serve as the foundation for the substantive balancing test. This principle requires measures that must pursue a legitimate aim, be suitable to achieve it, and not go beyond what is

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<sup>6</sup> Paul Craig, *Administrative Law* (8th edn, Sweet & Maxwell 2016).

<sup>7</sup> Jenna Burrell, 'How the Machine "Thinks": Understanding Opacity in Machine Learning' (2016) 3(1) *Big Data & Society* 1; Andrew D Selbst and Solon Barocas, 'The Intuitive Appeal of Explainable Machines' (2018) 87 *Fordham L Rev* 1085.

necessary. In the AI context, this means state reliance on algorithmic tools, like seen in surveillance or predictive policing, must be tailored and justified against less intrusive alternatives. Comparative jurisprudence, particularly in European rights-based review, underscores proportionality as a critical safeguard against technological overreach. In Malaysia, proportionality aligns with constitutional rights protections under **Articles 5-10 of the Federal Constitution** and with judicial review standards articulated in cases such as *Sivarasa Rasiah v Badan Peguam Malaysia*<sup>8</sup>, where the Federal Court affirmed proportionality as part of constitutional analysis.

Finally, legitimate expectation integrates transparency and proportionality into the broader trust relationship between citizen and state. Where government policy statements, guidelines or practices create expectations, such as assurances of data protection or ethical AI use, deviation without justification may amount to unfairness.<sup>9</sup> In Malaysia, public trust in AI deployment depends on the state adhering to commitments made under strategies like **MyDigital** and the **Malaysia Digital Economy Blueprint**. A lack of transparency in implementation, or disproportionate application of AI systems beyond what was publicly promised, risks breaching these expectations and undermining administrative legitimacy.

Taken together, these principles interlace and reinforce each other – transparency enables scrutiny, proportionality ensures balance, and legitimate expectation sustains trust. The combined application underscores why Malaysia’s AI governance must be framed in legal-administrative terms, not merely technical ones, if it is to remain consistent with rule of law values and public law standards.

### **3. GOVERNING AI IN MALAYSIA – FRAMEWORKS**

Having established the global debates and the relevance of administrative law principles, the next step is to consider how these insights can be applied within the Malaysian context. The challenge here is not merely to identify the best practices, but to articulate a governance framework that is legally robust, administratively workable, and in line and responsive to

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<sup>8</sup> [2010] 3 MLJ 333 (FC).

<sup>9</sup> See *Council of Civil Service Unions v Minister for the Civil Service* [1985] AC 374 (HL) establishing the doctrine of legitimate expectation; *R v North and East Devon Health Authority, ex p Coughlan* [2001] QB 213 (CA) developing the principle into a substantive right where clear promises have been made.

Malaysia's digitalisation agenda. This section therefore sets out possible frameworks for governing AI in Malaysia, drawing on 3 dimensions: how Malaysia can govern AI through existing laws, administrative principles, and comparative lessons.

### **3.1. EXISTING LEGAL AND POLICY INFRASTRUCTURE**

Reforms and adaptations to the law, as well as introductions of new policies have been in works in Malaysia for several years now. National strategies like the **MyDigital Blueprint** and the **National AI Roadmap** have been put into motion to begin the rework in frameworks for AI regulation.

The **National AI Roadmap 2021-2025** positions AI as a key growth sector, focusing on talent development, industrial application as well as the establishment of a National AI Centre (NAIC) to behave as the centre point of coordination of policy and standards. Similarly, the **National AI Roadmap** identifies AI as a key driver of economic transformation, with a large focus on education, healthcare and smart cities.<sup>10</sup> The **MyDigital Blueprint** complements this, framing AI within the broader digital economy and heavily emphasises on cloud adoption, data governance as well as the eventual reform of the **PDDPA**.<sup>11</sup> These strategies outline ambitious goals for enhancing competitiveness, innovation and public sector efficiency through digitalisation. Similarly, the **National AI Roadmap** identifies AI as a key driver of economic transformation, with a large focus on education, healthcare and smart cities.<sup>12</sup> In September 2024, MOSTI (Malaysia's Ministry of Science, Technology and Innovation) adopted the **National Guidelines on AI Governance and Ethics**, embedding seven core principles for responsible AI development and deployment – fairness, reliability, privacy, inclusiveness, transparency, accountability, and human benefit.<sup>13</sup> These principles complement the administrative law principles of transparency, proportionality and legitimate expectation and provide a benchmark across industries, the public sector and policymaking.

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<sup>10</sup> Ministry of Science, Technology and Innovation (MOSTI), *National Artificial Intelligence Roadmap 2021–2025* (MOSTI 2021).

<sup>11</sup> Economic Planning Unit, *MyDigital: Malaysia Digital Economy Blueprint* (Prime Minister's Department 2021).

<sup>12</sup> Ministry of Science, Technology and Innovation (MOSTI), *National Artificial Intelligence Roadmap 2021–2025* (MOSTI 2021).

<sup>13</sup> Ministry of Science, Technology and Innovation (MOSTI), *The National Guidelines on AI Governance and Ethics* (September 2024).

However, the legal infrastructure supporting these strategies remain fragmented as of today. One of the major related governing acts, the **PDPA** regulates personal data management and processing, but applies only to the private sector, leaving public sector use and government data use largely unchecked.<sup>14</sup> The **Communications and Multimedia Act 1998** regulates the ICT sector, but precedes widespread AI adoption and lacks AI-specific provisions.<sup>15</sup> Other sectoral statutes, such as the **Financial Services Act 2013** and the **Private Healthcare Facilities and Services Act 1998** contribute to the patchwork approach, deepening the fragmentation and a lack of a general coverage regulating AI.

Institutionally, responsibility is diffused between the Malaysian Digital Economy Corporation (MDEC)<sup>16</sup>, the Ministry of Science, Technology and Innovation (MOSTI), and the Malaysian Communications and Multimedia Commission (MCMC). A step taken forward to address this fragmentation can be seen through the creation of the National AI Office (NAIO) in 2024, tasked with coordinating policy and implementing a five-year action plan on AI ethics and regulation. Despite being so, coherence and enforceability remain limited, particularly as no binding AI-specific legislation exists yet.

#### **4. CHALLENGES IN IMPLEMENTATION**

Whilst making important progress in developing AI governance framework, several challenges, or as best when literally described, ‘leaky holes’, continue to exist, affecting any advances made. The first issue, as mentioned briefly earlier, is the issue of fragmentation. Not only is partial, incomplete and out-of-date legislation spread out across multiple Acts, but the institutions handling oversight are spread and distributed out across the Malaysia Digital Economy Corporation (MDEC), the Malaysian Communications and Multimedia Commission (MCMC), the Ministry of Science, Technology and Innovation (MOSTI), and now finally the National AI Office (NAIO). Without a clear, leading agency setting precedent, overlaps or regulatory gaps may risk undermining accountability. Different ministries may have different frameworks that do not flow coherently, leading to clashes and a discontinuous flow. For example, MCMC regulates digital infrastructure and

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<sup>14</sup> Personal Data Protection Act 2010 (Act 709), s 3.

<sup>15</sup> Communications and Multimedia Act 1998 (Act 588).

<sup>16</sup> Malaysia Digital Economy Corporation (MDEC), *Annual Report 2022* (MDEC 2023).

data management, but lacks a mandate for ethical AI use, while MOSTI provides standards of guidance, but not the enforcement powers.

The second issue lies in the outdated legislation and gaps in statutes. The **PDPA** regulates private-sector data use, but expressly excludes government data processing.<sup>17</sup> The omission leaves citizens without recourse when administrative agencies deploy AI in public decision-making. Similarly, the **Communications and Multimedia Act 1998 (CMA)** precedes the widespread use of machine learning and algorithmic governance.<sup>18</sup> The result is a framework in the form of patchwork, incapable of addressing new risks such as algorithmic discrimination, a lack of transparency when it comes to decision-making, or automated profiling.

Thirdly, institutional and capacity constraints limit enforcement when resources and expertise inputs are scarce. Malaysian regulators must be able to adapt to rapid technological change and provide equivalent growth in capacity. In contrast to the EU's approach under their AI Act, they function through the creation of a dedicated AI Office with investigatory powers and sanctioning authority to ensure a thorough and coherent enforcement across Member States. In order for enforcement to truly be put into place, Malaysia needs a strengthened institutional capacity lest we risk making governance more symbolic and optional than effective.

## **5. ADMINISTRATIVE LAW AS A GUIDING FRAMEWORK**

In the absence of AI-specific legislation, the administration may take pointers and frameworks from its administrative law principles, providing a valuable governance anchor without straying too far, making it difficult to align AI-specific legislation with general governance and deployment nationally. As noted previously, transparency, proportionality, and legitimate expectation can all provide a solid, relevant backbone in building a framework structure.

Transparency will demand public authorities and corporations to disclose information about AI software and their processes of decision making. With this, affected parties or individuals retain grounds to understand and contest administrative outcomes should mishaps or misalignments to the law occur. Proportionality ensures that AI use pursues

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<sup>17</sup> Personal Data Protection Act 2010 (Act 709).

<sup>18</sup> Communications and Multimedia Act 1998 (Act 588).

legitimate aims without excessive intrusion, aligning with the Federal Court's endorsement of proportionality as part of constitutional rights protection in the case of *Sivarasa*. Legitimate expectation can further strengthen trust by requiring the government to honour commitments made in national strategies like the **MyDigital Blueprint** and the **AI Roadmap**, making departure from completion or carrying out commitments close to impossible without proper justification and explanation.

### **5.1. COMPARATIVE AND NORMATIVE MODELS**

Looking at fellow neighbouring and developed countries for comparative experience can illustrate potential pathways for Malaysia. Our next door neighbour, Singapore, offers its latest, non-binding but rather **voluntary Model AI Governance Framework**<sup>19</sup> - introduced by the Personal Data Protection Commission, the framework is specifically released and designed as a practical guide for organisations deploying AI. Though non-binding, it remains highly influential and highly encourages a risk-based, human-centric approach, as well as promoting internal governance structures in organisations, sharing similar administrative values such as transparency, fairness and accountability in data use. The EU's proposed **EU AI Act** adopts a risk-based approach as well, managing systems and classifying them by their risks<sup>20</sup>, abiding by strict obligations like maintaining high-quality, unbiased training data, providing human oversight measures, and going through conformity assessments before placements on the market for higher risk AI systems. This Act, currently being governed by the new EU AI Office, is the first comprehensive binding regulation on AI worldwide, marking a significant step in AI governance globally.

Evaluating the Malaysian governance structure where the administration remains executive-driven, developmental and rooted in common law, it is observed that adopting such a strict EU-style model right now may be too rigid, while a purely voluntary approach risks insufficiency and a lack of enforcement. A hybrid approach can be expected to follow, by blending statutory provisions with regulated guidance and ethical codes, an approach that may align better with the current needs of the nation

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<sup>19</sup> Personal Data Protection Commission (Singapore), *Model AI Governance Framework* (Second Edition, January 2020).

<sup>20</sup> European Commission, *Proposal for a Regulation Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act)* COM (2021) 206 final.

while retaining flexibility for innovation and a growth towards the direction of working in more comprehensive models.

## **5.2. WORKING TOWARDS A HYBRID FRAMEWORK FOR MALAYSIA**

Attempting to navigate and publish a functional, hybrid framework for Malaysia should take into account the many factors of the current working style of the administration while pushing for innovation and reform where needed. Three pillars can be suggested here – on a statutory level, there should be calls for reform. Secondly, administrative law safeguards and principles should be codified, while lastly maintaining voluntary, soft law instruments to strike the balance on proportionality.

At a statutory level, it remains an understatement to say that the reform of the **PDPA** to cover public and government data use is crucial. Provisions also need to be made to mandate algorithmic transparency and explainability as we move forward. Administrative law principles should be codified into guidelines for public sector AI deployment, and MOSTI's 7 principles provide normative depth, continuing to ensure that factors like fairness, accountability and human benefit remain the core central values.<sup>21</sup> Codifying such principles allows for the publication of automated decision-making and better accountability where promises cannot be kept or fulfilled, while still allowing some ambiguity and flexibility as to how public and private sectors are to carry said principles out, as long as they abide and follow the protocol and framework set before them as legally required to. This is where soft law instruments remain important to encourage uptake and industry cooperation without rigidly constraining development. Singapore's **Model AI Governance Framework** provides a useful backbone structure for voluntary codes and principles, especially on governance structures, explainability and room for human oversight. As our newly-minted main ministry managing this, our National AI Office (NAIO) has been positioned and equipped to integrate statutory and non-statutory tools and liaise with sectoral regulators.<sup>22</sup> Especially now as Malaysia has taken on the regional role as ASEAN Chair, hosting events like the ASEAN AI Malaysia Summit and championing initiatives like the ASEAN AI Safety Network and AI Trust Framework, this creates a platform

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<sup>21</sup> Ministry of Science, Technology and Innovation (MOSTI), *The National Guidelines on AI Governance & Ethics* (September 2024).

<sup>22</sup> MyDIGITAL, 'Launch of the National AI Office (NAIO)' (12 December 2024).

to promote shared standards and practices regionally, as well as reinforcing domestic reforms.<sup>23</sup>

## **6. GOVERNMENT USE OF AI IN PRACTICE: ADMINISTRATIVE LAW IN ACTION**

After delving into the specifics of principles that can be used to shape a more structured framework, we can now look into how said administrative law principles apply to the government's own deployment of AI. Rather than what seems like far away doctrines at the moment, it is imperative that we work to operate these frameworks to function as operational applicable checks against the misuse of algorithmic decision-making in the government's own practice.<sup>24</sup>

### **6.1. TRANSPARENCY: MYSEJAHTERA CASE STUDY**

Transparency in AI deployment requires disclosure where administrative agencies open up on their basis, scope and consequences of decision-making. During the COVID-19 pandemic, the Malaysian government deployed MySejahtera as the national contact-tracing and health status application. It worked to classify risks, manage data on individuals' health statuses, and was justified as a public health necessity amidst a global medical crisis, but soon questions arose over the app's procurement, data ownership and management, and subsequent repurposing of said data for the broader governmental use.<sup>25</sup> The lack of disclosure regarding private vendor arrangements and the lack of transparency in the transition of the app into wider state infrastructure undermined public confidence.<sup>26</sup> In administrative law terms, this falls short of the principle that transparency in AI deployment is not merely good governance but a constitutional imperative, and that citizens or affected parties must be able to see and understand how AI tools are being used and deployed in order to hold the state accountable.

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<sup>23</sup> ASEAN Secretariat, 'ASEAN AI Malaysia Summit 2025' (AAIMS25) (June 2025); see also 'Malaysia to Host ASEAN AI Malaysia Summit as ASEAN Chair 2025' *The Star* (Malaysia, 14 May 2025).

<sup>24</sup> Mark Elliott and Jason Varuhas, *Administrative Law: Text and Materials* (6th edn, OUP 2023) 212.

<sup>25</sup> 'Khairy: MOH Plans Full Takeover of MySejahtera' (*Code Blue*, 4 October 2022).

<sup>26</sup> Shahrin Aizat Noorshahrizam, 'Transparency International Malaysia Expresses Concern over Govt's Handling of MySejahtera Data' *MalayMail* (Malaysia, 30 Mar 2022).

## **6.2. PROPORTIONALITY: THE PP V DENIS P MODILI AI SENTENCING SYSTEM**

The case of *PP v Denis P Modili*<sup>27</sup> involves an AI sentencing recommendation system, introduced in the Magistrate's Court in Sabah and Sarawak, that was intended to aid sentencing in drug-related offences. The system would base its decisions off of factors like criminal history, the weight or amount of drugs carried, and punishments for each kind of offence. While the objective is to reduce disparity in sentencing, its use remains questionable when it comes to fairness, discretion and consistency. Ensuring proportionality means carefully assessing whether AI tools serve to enhance judicial efficiency without overriding the judge's role or infringing on a sentenced individual's rights. Malaysia must ensure that the use of AI in courts is accompanied by clear governance safeguards and especially transparency around its usage, as well as a reasonable amount of human oversight through mechanisms to contest and correct algorithmic outputs.

## **6.3. LEGITIMATE EXPECTATION: PUBLIC ASSURANCES ON AI USE**

Legitimate expectation arises when public authorities make representations which citizens can reasonably rely on.<sup>28</sup> In the MySejahtera context, the government's assurance that collected data would be used strictly for pandemic management undoubtedly created an expectation of a limited, temporary use for the sole purpose of a period of time of global crisis. Reports of the app's data being considered for wider administrative use undermines this assurance. As **Malaysia's National AI Governance and Ethics Guidelines (2024)** outlines the principles of accountability, fairness and transparency, it is imperative that the government in its own usage of AI continues to abide and commit to these principles that they have set themselves to continue to obtain the general public's confidence in their governance.

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<sup>27</sup> Denis W K Khong and Chiung Ching Ho, "Artificial Intelligence in Malaysian Courts: PP v Denis P Modili" (2022) 2 Asian Journal of Law and Policy 127.

<sup>28</sup> Christopher Forsyth, *Legitimate Expectations in Administrative Law* (OUP 2020) 43–47.

## 7. ASEAN AND GLOBAL POSITIONING

As established previously, Malaysia is not functioning in isolation but rather, as newly appointed ASEAN Chair of 2025, we now hold an important, regulatory role in the regional and international landscape to shape collective norms on digital and AI regulation.<sup>29</sup> Through ASEAN's **Digital Masterplan 2025** and the ongoing development of the **ASEAN Guide on AI Governance and Ethics**, member states are working towards a shared framework to continue to promote interoperability, trust, and safe AI adoption.<sup>30</sup> As the head of leadership, Malaysia has an opportunity to project its national principles into the regional agenda – principles rooted in transparency, proportionality, and accountability.

At a global level, as seen in comparative insights in the EU, Malaysia can learn through influence by major governance models like the **EU AI Act**, to adopt a risk-based approach with binding regulatory obligations,<sup>31</sup> and Singapore's non-binding but principle-driven guidance issued by their National AI Commission. ASEAN's collective stance, coupled with the Malaysian chairmanship, could create ground to form a regional, middle path, setting an example for neighbouring countries and balancing adaptability in innovation, facilitation and human rights.

Ultimately, the Malaysian global positioning will depend on whether it can bridge domestic principles with regional aspirations as well as aligning them with international standards, ensuring that its AI governance is not only locally relevant, but globally credible.

## 8. CONCLUSION

This paper has been aimed to address two central questions: firstly, how Malaysia currently governs AI, and secondly, how the government's own use of AI reflects the administrative law principles of transparency, proportionality and legitimate expectation.

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<sup>29</sup> ASEAN Secretariat, *ASEAN Digital Masterplan 2025* (2021).

<sup>30</sup> ASEAN, *ASEAN Guide on AI Governance and Ethics (Draft)* (2024).

<sup>31</sup> Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence (Artificial Intelligence Act) [2024] OJ L168/1.

At first glance, Malaysia's governance today remains largely policy driven, with fragmented institutions and instruments like MOSTI and the **National AI Roadmap** respectively, being complemented by other policies like the **MyDigital Blueprint** and the **National Guidelines on AI Governance and Ethics**. These initiatives, though not altogether coherent and systematically functional yet, signal ambition and a national desire to reform the digital landscape in our administration. The absence of statutory reform currently stands as the weakest joint in the administration, preventing the three main principles that were elaborated on previously to be truly recognised and achieved.

On the other issue, government case studies and personal applications of the fragmented framework on cases like MySejahtera and the *P. Modili* case show that the administrative law principles are not just abstract ideals but practical safeguards. Each administrative principle will continue to be tested, and the need to embed these safeguards in all AI deployment and our statutes and legislations will only grow larger.

As ASEAN Chair, Malaysia stands at a prominent crossroad. Being in a position that is able to influence regional frameworks, its credibility will rest on the coherence of our own national framework. We need to continue to ensure public trust in government AI use, which will determine whether Malaysia's model of AI governance can balance innovation with accountability.