

UPACARA PEMBUKAAN TAHUN UNDANG-UNDANG



THE OPENING OF THE LEGAL YEAR

19 ZULKAEDAH 1421
13 FEBRUARY 2001
BANDAR SERI BEGAWAN



PEMBUKAAN TAHUN
UNDANG-UNDANG 2001

*THE OPENING OF
THE LEGAL YEAR 2001*

19 ZULKAEDAH, 1421
13TH FEBRUARY, 2001



**HIS MAJESTY PADUKA SERI BAGINDA SULTAN HAJI HASSANAL
BOLKIAH MU'IZZADDIN WADDAULAH IBNI AL-MARHUM SULTAN
HAJI OMAR 'ALI SAIFUDDIEN SA'ADUL KHAIRI WADDIEN
SULTAN AND YANG DI-PERTUAN OF BRUNEI DARUSSALAM**



**YANG MULIA DATO SERI PADUKA SIR DENYS
TUDOR EMIL ROBERTS
THE CHIEF JUSTICE OF BRUNEI DARUSSALAM**

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Assalamualaikum Warahmatullahi Wabarakatuh

Adalah menjadi suatu penghormatan dan keistimewaan bagi saya untuk mengalu-alukan kehadiran semua tetamu ke upacara pada hari ini untuk menandakan Pembukaan Tahun Undang-Undang Tahun 2001.



Sebagaimana di tahun-tahun yang lalu, semenjak upacara tahunan ini dirayakan di Bangunan ini, saya sangat berterima kasih kepada Jabatan-Jabatan Kerajaan yang terlibat dalam menjayakan upacara ini. Ucapan ini juga disampaikan kepada pegawai-pegawai dan kakitangan Jabatan Kehakiman di atas sumbangan mereka yang tanpanya, upacara pada hari ini tidak akan dapat berjalan dengan baik. Saya berasa yakin bahawa kerjasama yang telah dihulurkan itu akan berterusan di tahun-tahun yang akan datang.

Bagi pihak Jabatan Kehakiman saya menyampaikan rasa penghargaan kepada semua yang telah sudi hadir pada hari ini.

Semoga tahun 2001 membawa rahmat kepada kita semua.

PENGIRAN HAJAH ZABAIDAH BINTI PENGIRAN HAJI KAMALUDDIN
Ketua Pendaftar Mahkamah Besar

FOREWORD

Assalamualaikum Warahmatullahi Wabarakatuh

It is indeed an honour and a privilege to welcome you all to the functions today to mark the Opening of the Legal Year for Year 2001.

As in the past years since we have celebrated this annual event in these premises, I am grateful to the Government Department involved in making this occasion possible. My thanks also of course go to the officers and staff of the Judiciary for their contribution, without which today's events would have been difficult. I am certain that the cooperation extended will continue in the years to come.

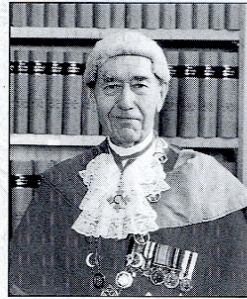
My appreciation, on behalf of the Judiciary, goes to all of you for joining us today.

I wish you all the best for the Year 2001.



PENGIRAN HAJAH ZABAIHAH BINTI PENGIRAN HAJI KAMALUDDIN
Chief Registrar Supreme Court

**SPEECH BY
DATO SERI PADUKA SIR DENYS TUDOR
EMIL ROBERTS,
CHIEF JUSTICE AT THE OPENING OF THE LEGAL YEAR
TUESDAY 15TH FEBRUARY 2000**



Mr. Attorney, Pehin Isa, Members of the Bar of Brunei Darussalam, Distinguished Guests, Ladies and Gentlemen.

I must preface my remarks by saying that it has been for me, as it has been every year when I have presided over them, both a privilege and a pleasure to take part in the various ceremonies which mark the Opening of the Legal Year in Brunei Darussalam.

I shall take the opportunity of drawing attention to various matters which I think are capable of improvement, to others which may be criticized and to innovations which I suggest should be adopted.

This should not be allowed to obscure the fact that there are many matters, for which we in the Judiciary are most grateful and which ought to be the subject of some general satisfaction as well.

Among these matters is the excellent standard set by prosecutors from the Attorney General's Chambers, who have invariably attained a high degree of fairness in prosecutions and have provided an example which is widely followed. Indeed, this same standard has been noticeably present in many of the prosecutions undertaken by the Royal Brunei Police Force and by other law enforcement agencies.

Perhaps the most valuable matter of all, is the manner in which the Judiciary itself has remained staunchly independent. No doubt some of its decisions have not been to the liking of various Government Departments, but no attempt has been made to interfere with the Courts, or to influence them in any way, save to the extent permissible in hearings in open court.

It is greatly to the credit of the Brunei Government, and of the Attorney General, who supervises all prosecutions, that no attempt has made to bring any improper pressure on the Judiciary.

We should also be grateful to the Attorney General for the enactment of many laws, which in 1999 exceeded in volume those enacted in any previous year. This legislation covered a wide field and is a considerable achievement by those members of his chambers who are responsible for legal drafting, which is always an exacting and difficult task.

STATISTICS

The Court of Appeal for Brunei Darussalam sat on two occasions in 1999, in April and November, dealing with 13 criminal and 13 civil appeals, a total of 26, compared with 23 in 1998 and 24 in 1997.

Its workload has thus been more or less constant, though as the number of cases in the High Court and Intermediate Court increases, it is likely that the number of appeals will also grow.

In 1999, in the High Court, there were 16 criminal trials, compared with 9 in 1998 and 13 in 1997. 22 civil cases were heard, compared with 25 in 1998 and 27 in 1997. There were 51 appeals from Magistrates, and 54 in 1998.

The number of civil cases begun in the High Court grew still further, to 360, compared to 342 in 1998 and 176 in 1997. This occurred in spite of an increase in the jurisdiction of the Intermediate Court from \$60,000 to \$100,000 with effect from 1st January, 1999.

The Registrars of the High Court dealt, in 1998, with their usual expertise and learning 872 matters, compared with 368 in 1998 and 443 in 1997, a considerable increase in their work.

They play a most important role in the High Court, dealing with matters which are often of great difficulty. As they operate in chambers, and not in open Court, their skill does not often receive the praise which is their due.

It was a reflection of the general economic problems of Asia that 308 bankruptcy cases were registered, and 185 receiving orders in bankruptcy were made, an increase from 63 in 1998, and 28 adjudication orders, compared with 29 in 1998.

The amount of work involved in the Court of Appeal and High Court can also be judged by number of days on which judges of these courts were present. Court of Appeal judges were present for 143 days, compared to 159 in 1998 and 123 in 1997.

Visiting High Court Judges were present for 295 days in 1999 compared with 292 in 1998. In addition in 1999 there were 210 days on which Brunei judges sat in the High Court. Their presence in the High Court has been a welcome development and I pay tribute to the excellence of their work, which augurs well for the future.

The Intermediate Court, which now has a full time judge, in addition to two part time judges, dealt with a total of 23 matters (18 criminal and 5 civil) as opposed to 24 in 1998 and 40 in 1997. 237 civil actions were instituted in that court in 1999, compared with 293 in 1998 and 150 in 1997.

Generally, there can be said to have been an increase in the work of the High Court, though waiting times, thanks to the efforts of the Bruneian judges, have not increased.

MAGISTRATES COURTS

The majority of cases in 1999 was, as is normally so in any year, dealt with by Magistrates.

Because they deal with many more cases than other Courts and more people come before them, the reputation of the Judiciary depends, for members of the public, on the impression given by Magistrates.

Fortunately, Magistrates have invariably shown themselves to be courteous, patient and fair minded, in carrying out the many functions imposed on them by the law.

In 1999, they deal with 5363 matters (2391 criminal and 2972 civil) as compared with totals of 5316 in 1998 and 4615 in 1997.

Due to previous resignations from the Judiciary, and to the additional time taken to deal with cases, the period between the first appearance in Court of a defendant is about 4 months in serious and about 4 months in ordinary cases in Bandar Seri Begawan and about 6 months in all cases in Kuala Belait. This is too long, for a summary Court, which should aim to complete all cases, within two months of the first appearance of the defendant.

I have had cause to comment in the past year on several occasions on the apparent failure of prosecuting agencies to bring a case to court within a reasonable time. It is of importance to remember that the defendant, in a case which is not taken to Court for a long time, is likely to suffer considerably as a result.

It must be made clear, however, that the responsibility for this (save where delay is due to the judiciary itself, as unfortunately sometimes has occurred) lies with the Attorney General, who controls all prosecutions.

It is open to him, if he thinks this necessary, as I hope he will, to issue a circular to all law enforcement agencies, warning them that a prosecution, must be taken to Court

within a specified time after the offence concerned is committed, though there will doubtless be valid reasons which this cannot be achieved in all cases.

This is a matter to which I referred at the last opening of the legal year, but unhappily the position has not improved.

I should, however, convey our thanks to the Attorney General, for the provision to the Judiciary of three experienced Magistrates, who have been of much assistance in reducing the backlog of cases. The increase in work in the Magistrates' Courts and the delays in hearing cases, has however, made it desirable for a further qualified Magistrate to be appointed, and I hope the Attorney General will be able to provide one.

THE NEED FOR OTHER PROVISIONS IN THE LAW

One of the matters which has aroused some anxiety in Judiciary is the limited range of punishments or orders which a court can properly make.

At present, a Magistrate is entitled to order imprisonment, and to commitment to Rumah Al-Islah, and to binding over under sections 262 and 263 of the Criminal Procedure Code.

A Magistrate does not have available to him a wide range of punishments and orders which have been shown to be useful alternatives, if they are properly used.

In appropriate cases, an order for probation has been found to be effective. It keeps the defendant concerned away from the bad influences which might be brought to bear on him in prison and ensures that, for the period of the order, he is under the supervision of a probation officer, who watches over his conduct and issues him with necessary orders.

This involves the training and appointment of probation officers by an appropriate ministry but should result in an equivalent saving in the prison service.

Nor is there provision for suspended sentences. It is often useful to be able to impose upon a defendant a prison term, which is suspended so long as he does not offend again during a specified period. If he does, he will have to serve the original term, as well as any sentence imposed in the second case.

Another method, which has been found effective in many cases, is the community service order, which obliges an offender to carry out tasks for the benefit of the community, under supervision. There are plenty of jobs, often unpleasant ones, which

can properly be the object of such an order, though this will have to be supervised by the appropriate authority.

I should also mention the case of juvenile offenders, by which I mean persons under 21. At present, there is no special facility for them, so that they have to be sent to Jerudong Prison, where they will be subject to adult influences, some of them bad. It would be to their advantage, and increase the chances that they will not sink into a life of crime, if separate secure accommodation were to be provided for them.

I should also mention the fact that there is no provision in Brunei Darussalam for spent convictions, whereby a conviction more than a specified number of years before is ignored for the purposes of sentence in a present case.

This is particularly pertinent in cases of drug consumption or careless driving, where there is a minimum sentencing requirement on a second or subsequent conviction, however long ago the last conviction may have occurred.

It would be helpful if the law provided that old convictions should not be taken into account, replacing the present practice of the Courts to disregard them in appropriate cases, which is without statutory backing.

PUBLIC DEFENDER

However desirable this may be in theory, there can be no doubt that, in practice, a general grant of legal aid to the majority of the population of any country is expensive. Nor can this be controlled, except by the grant of legal aid only to persons with an income below a certain limit, a measure which is likely to leave many persons of limited means outside the scheme.

At present, in Brunei Darussalam, legal aid is only available to the defendants in criminal cases in which a death sentence may be imposed. The fees payable to counsel briefed for the defence in these cases is not in accordance with current scales and has not been altered for about fifteen years.

Therefore, such fees ought to be substantially increased, bearing in mind particularly the stress which counsel defending a client charged with a capital offence must necessarily feel.

Even on the present scale of fees, the cost of legal aid to the state is both considerable and not predictable. There should, I suggest, be an extension of the scheme

to cover all persons charged with any offence in the High Court. At present the majority of those charged in the High Court are left without legal representation, a state of affairs which is not satisfactory to the defendant and places a heavy burden on the prosecutor and the judge to ensure that a fair result is achieved.

I would like to propose that a system of public defender be adopted, whereby all defences in the High Court are undertaken by a counsel appointed for that purpose. It is probably better, rather than setting up a new office for this purpose, to award the contract, for a fixed fee for the year, to one of the firms in private practice.

This will present the Government with a fixed and determined annual expense, which should not be as large as the costs of the existing scheme have been already in some years. I have seen this system working well in practice.

PUBLICATIONS

Both counsel and the Courts must rely on various publications to ensure that their knowledge of legislation and case law is up to date.

For this reason, it is unfortunate that no Brunei Law Reports have been issued since the volume for 1991. Nor have any of the volumes of Judgments of the Courts of Brunei Darussalam been published since the volume containing judgments for the second half of 1998.

It should also be noted that both the volumes of Law Reports and of the Judgments badly need a proper index, which does not exist at present.

I must yet again refer to the unsatisfactory condition of the present Edition of the Laws of Brunei, which is now 17 years old. It has not been properly kept up to date by the issue of annual supplements, and is therefore inadequate and misleading.

I should also mention that, as yet, a printed volume containing legislation for 1998 has not been issued, as surely it should have been. I hope that it will soon be published, followed before long afterwards by the volume for 1999.

TAXATION

There has been some criticism, much of it I am sure not justified, of fees charged by lawyers.

It is not generally known that a litigant in any matter, civil or criminal, who is not satisfied with the charges levied for services by a legal firm, is entitled to ask for taxation of the bill presented to him.

In the absence of a Law Society, which can often settle the claims of an unhappy litigant, I have been obliged to deal with a number of complaints of overcharging. Some I have been able to settle, whereas in other cases I have informed the complainant that he is entitled to ask that the lawyer's bill be taxed.

OBLIGATORY FORFEITURE

Where there has been a breach of any of the provisions of the Customs Act, the Court which deals with a prosecution under this Act is obliged, if the prosecution so asks, to order the forfeiture of anything used in the commissions of an offence under this Act.

This will mean, for example, that a car which contains one can of beer, which is not declared when it should be, is forfeited to the state, even if the owner of the car was unaware that it was to be used for this purpose and where the value of the car far exceeds the value of the undeclared can.

By contrast, if a car is used to convey a large quantity of illegal controlled drugs, it remains a matter of discretion for the Court, under the Misuse of Drugs Act, as to whether or not the car itself is forfeited to the State.

I urge that the same discretion should be given to Magistrates under the Customs Act, since it is surely wrong that the forfeiture of a car should be mandatory under that Act, though it is discretionary under other provisions.

POWER TO SUE THE GOVERNMENT

There has been a general economic crisis by Asia, exacerbated by various developments in Brunei Darussalam.

The Brunei Government has taken measures to encourage investment in the country and has sought to persuade investors that Brunei Darussalam is a good place in which to place money.

I ask those who decide on policy in these matters to take into account the fact that the absence of any right to sue the Brunei Government, must necessarily be a severe discouragement to investment here.

The Brunei Government undertakes many tasks which in other countries are left to private enterprise. Yet there is no recourse to an independent body, such as the

Courts, for a businessman who is in conflict with the Government. Indeed, any person with a claim against it must accept what he is offered. However generous this may be, he is likely to remain convinced that he has been unfairly treated.

I hope that the law will be altered, so as to permit claims to be brought against the Government, as has been the case in most countries, including Malaysia and Singapore, for a long time.

On the issue of confidence, I should also mention the unfortunate fact that legislation is still labelled an Emergency Order. This gives the impression that Brunei Darussalam suffers from internal unrest, which we know to be wholly inaccurate. There is no reason why legislation should be described as emergency and I hope that this practice will cease.

THE MOTOR INSURERS BUREAU

In the past year, there have been a number of road accidents caused by the negligence of uninsured drivers. When this happens, it is unlikely that the injured party can expect financial compensation for injuries and damage which he has sustained.

And, in some other cases, it has not been possible to trace the driver who is responsible for this.

For these reasons, it has been common, in many countries, to establish a Motor Insurers Bureau, which assumes liability in these circumstances.

The relevant papers of the Singapore scheme were provided in March 1999 to the Attorney General, but as yet there has been no announcement that such a Bureau will be established in Brunei Darussalam, as I hope it will be before long. This is a problem which will not go away if it is not dealt with.

LEGAL PROFESSION

In 1999 there were important changes to the Legal Profession Act, the effect of which is to ensure that citizens of Brunei, and those holding a residence certificate, are able to practice law, upon the acquisition by them of one of the qualifications set out in the Act.

However, non-Bruneians will in future only be admitted to practice if they are able to show that they have practised for not less than seven years immediately preceding

admission. Nor will their practising certificates be renewed unless they were in active practice in Brunei Darussalam for nine months or more during the preceding year.

These new provisions will ensure that Bruneians new to the profession can practice, whereas inexperienced non Bruneians cannot. In the past, we have been served well by practitioners from abroad with limited experience, but I believe that the time has come to ensure that, so far as non Bruneians are concerned, only those with considerable previous experience are admitted here in future.

In these changed circumstances, I suggest that it would be desirable for practitioners to undergo a period of pupillage, if they have not already done so, before they are permitted to practice.

It may well be said that this country is much indebted to the legal profession, which has grown in numbers in recent years, so that some 50 lawyers work for the Government and nearly 70 are in private practice.

I suggest that the time has come when the establishment of a Law Society can be seriously considered. If necessary, its activities can be limited to matters of concern to the legal profession only, so that it does not involve itself in political matters, as it has unfortunately done in some other countries.

If there is a fear that the control of the profession may fall into non-Bruneian hands, it is possible to avoid this by providing that there shall be a majority of Bruneian citizens or permanent residents on the committee of a Law Society.

THANKS

It is customary, on these occasions, for me to express my thanks to some of those who have contributed to the success of the various ceremonies.

Prominent among these all the Royal Brunei Police Force, which has provided the fine guard of honour which I was privileged to inspect earlier today.

I must emphasize the important role, in our system of justice, played by the police, and indeed by other law enforcement agencies such as the Narcotics Control Bureau, the Anti Corruption Branch and the Customs and Excise Department, all of which have carried out their duties fearlessly but fairly, and with much competence, during the past year. It is important that the public should retain its confidence in the diligence and skill of these agencies.

The work of a police officer is often exacting and dangerous. It is greatly to the credit of the force that it has been able to gain and keep the confidence of the public in the ability and fairness of its officers.

An occasion of this nature necessarily involves much preparatory work, carried out by the Chief Registrar and her many competent assistants, to whom we are most grateful for their efforts to ensure that all the arrangements for today will be smooth.

I would like to take this opportunity to thank them, and all the clerks, stenographers and other personnel of the Judiciary, without whose hard work and skill we would not be able to operate effectively.

We are most grateful to you all of you non-lawyers who have found time, in your busy lives, to attend this occasion.

I hope that it signifies, as I am sure that it does, that there remains a genuine and deep interest in the system of justice which prevails.

It is greatly to the credit of the Brunei Government that the rule of law prevails and that the Courts continue to ensure a proper protection of the rights of the individual.

May I conclude by offering the congratulations of the Judiciary on the awards conferred by His Majesty, on the occasion of his last birthday, on the President of the Court of Appeal, the Attorney General and the Chief Registrar. This was indeed a fitting recognition of their admirable and devoted work for many years in different but important spheres.

SPEECH BY

**YANG MULIA
DATO PADUKA KIFRAWI BIN DATO PADUKA HAJI
KIFLI
AT THE OPENING OF THE LEGAL YEAR
15 FEBRUARY 2000**



Bismillahir Rahmanir Rahim

Assalamualaikum Warahmatullahi Wabarakatuh

My Lord,

Dato Seri Paduka Sir Denys Roberts, Chief Justice of Brunei Darussalam.

Yang Amat Mulia Pengiran Lela Cheteria Sahibun Najabah Pengiran Anak Haji Abdul Aziz bin Pengiran Jaya Negara Pengiran Haji Abu Bakar, Controller of Custom and Excise.

Yang Berhormat Pehin Orang Kaya Laila Setia Bakti Diraja Dato Laila Utama Haji Awang Isa bin Pehin Datu Perdana Manteri Dato Laila Utama Haji Awang Ibrahim, Special Adviser to His Majesty The Sultan and Yang Di-Pertuan of Brunei Darussalam in the Prime Minister's Office cum Minister of Home Affairs.

Yang Mulia Dato Paduka Seri Haji Yaakub bin Pehin Orang Kaya Maharaja Diraja Dato Paduka Haji Zainal, Commissioner of Police.

Distinguished guests

Ladies and Gentlemen

On behalf of my Chambers I would like to express our appreciation to Your Lordship, the other Judges and Magistrates and staff of the Judiciary, the private legal practitioners, law enforcement officers and other Government officers for their cooperation and support in our on-going effort to uphold the rule of law and the maintenance, fine-tuning and proper running of our machinery of justice.

LEGISLATION

In 1999 several important legislations have been passed. I would like to mention briefly some of them.

The Emergency (Defamation) Order was passed to codify the law of libel and slander which are laws to protect a person's reputation in this country.

The recent amendment to the High Court Rules amongst other things, provides detailed procedure for pre-trial conference which hopefully would encourage parties in civil cases to settle and thus avoid in certain cases unnecessary and expensive trial.

The Criminal Procedure Code was also amended last year.

One notable amendment I would like to mention is that preliminary inquiry is no longer required for rape cases. This would mean the victims in rape cases are no longer required to give evidence twice and thus avoid the ordeal of giving evidence twice.

The passing of Emergency Orders relating to the protection of intellectual property rights, namely, the Emergency (Trade Mark) Order, the Emergency (Patent) Order, the Emergency (Copyright) Order, the Emergency (Industrial Design) Order and the Emergency (Layout Design) Order would mean Brunei Darussalam has taken important steps to comply with its international obligations under the TRIPS Agreement.

The Emergency (Married Women) Order, the Emergency (Guardianship of Infants) Order and the Emergency (Islamic Family Law) Order were passed to provide certain provisions relating to marriage, divorce maintenance, guardianship and others in connection with family life.

The new family law would give better protection to women and children.

There are other legislations which have been passed such as Emergency (Security Agencies Act) Order, 1999, Emergency (Land Code [Strata]), Order, 1999, Emergency (Wills) Order, 1999 and Emergency (Fatal Accidents and Personal Injuries) Order Amendment to Section 4. The laws are printed in the Government Gazette.

CRIME STATISTICS

As is customary on this occasion, I would like to refer to the incidence of crime in the country.

According to statistics compiled by the Royal Brunei Police Force, there were 3,085 reported cases in 1999 compared to 2,750 in 1998. 2,484 arrests were made and 1,426 were resolved. The number of offences against the person were 401 in 1999 compared to 338 in 1998. The number of offences against property were 1,281 cases in 1999 compared to 1,230 in 1998.

The traffic statistics compiled by the Royal Brunei Police Force show that in 1999 there were a total number of 2,782 cases compared to 2,692 in 1998. 45 persons died in 41 fatal accidents compared to 50 deaths in 1998.

In 1999 the total number of persons arrested for offences under the Misuse of Drugs Act was 558 compared to 432 in 1998.

The Anti Corruption Bureau received 142 information in 1999 compared to 146 in 1998. 8 persons appeared in Court to face charges under the Prevention of Corruption Act.

The Royal Customs and Excise dealt with 116 cases compared to 150 in 1998 for offences under the Customs Act. 43 cases compared to 87 in 1998 were brought to Court and 11 cases were compounded compared to 8 in 1998.

The Immigration authority prosecuted 541 persons in 1999 compared to 441 in 1998.

The Attorney General's Chambers together with the other law enforcement agencies have been monitoring closely punishment ordered by the Courts against criminal offenders. We want to ensure the punishment are adequate deterrence to such offenders. We do appreciate that the Courts have been working very hard in their difficult job of dispensing justice, in particular to be fair and just not only to the accused, but also the victims of crime. We too have been working hard doing our difficult job of maintaining law and order in this country. So together with the Courts we will continue using our machinery of justice to keep Brunei Darussalam which has been enjoying a period of continuing peace, progress and prosperity, always a safe place to live in.

I do not wish to deal with policy matters which you have just raised in your speech. The issue regarding power to sue the Government has been discussed and decided upon. As to the setting up of Motor Insurance Bureau, the matter has been referred to relevant Ministries for them to take further action.

CONCLUSION

May it please Your Lordship, that brings me to the end of my address.

I hope the good relationship between my Chambers, Judiciary and the private practitioners will continue forever and ever. We shall and will meet again in the coming

legal year dinner. My Lord Chief Justice, let us focus on the good food this time and leave the singing to the professional singers.

On behalf of my Chambers I wish to thank those who have arranged and participated in this ceremony.

Finally may I take this opportunity to wish Your Lordship and everyone present this morning a successful and prosperous 2000.



**ADDRESS BY YANG BERTHORMAT PEHIN ORANG
KAYA LAILA SETIA BAKTI DIRAJA DATO LAILA
UTAMA HAJI AWANG ISA BIN PEHIN DATU PERDANA
MANTERI DATO LAILA UTAMA HAJI AWANG
IBRAHIM,
REPRESENTING THE LEGAL PROFESSION
AT THE OPENING OF THE LEGAL YEAR 2000
ON TUESDAY, 15TH FEBRUARY, 2000**



Bismillahir Rahmanir Rahim

My Lord Chief Justice,

May it please Your Lordship,

It is indeed a great honour and a rare privilege for me to have been invited to attend this auspicious occasion.

My Lord,

In view of my official functions elsewhere, I should like at the outset to declare that I stand before Your Lordship today purely in my personal and professional capacity as an advocate and solicitor, that is to say, as a Member of the Brunei Bar - having been on the Roll of Advocates for the last 30 years.

I am grateful to the Chief Registrar for inviting me, no doubt with Your Lordship's blessing, to attend these ceremonies and in particular to address Your Lordship on behalf of the Brunei Darussalam legal profession.

My Lord,

I should like to associate myself and my learned colleagues wholeheartedly with the sentiments so ably expressed by the learned Attorney General in his tribute to Your Lordship personally and to the Judiciary as a whole and to join with him in extending our best wishes for the new year.

My Lord,

The fact that Your Lordship has held the office of Chief Justice of Brunei Darussalam for the last 21 years is testimony to the high esteem with which Your Lordship is held in this country.

Your Lordship and your fellow judges, both present and past, have worked tirelessly in building a strong and sound judicial system since the establishment of Brunei's own judiciary in 1963.

Your Lordship in particular, supported by the other judges, has given the public and litigants a great sense of confidence that in the Courts of Brunei Darussalam justice is not only done, but is seen to be done – and may I add here, My Lord, that with the excellent acoustics of this magnificent Court House, justice is also distinctly heard to be done.

My Lord,

Twelve months ago, a milestone in Brunei Judicial history was established when His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam graciously appointed Datin Hayati as she now is, and Awang Steven Chong as the first locals to be Commissioners of the Supreme Court.

Members of the Bar rejoiced at these appointments.

The legal profession is conscious of the heavy burdens placed on Your Lordship and on judges of the Supreme Court to dispense justice without fear or favour, affection or ill-will, and we therefore wish to assure the judiciary of our unstinting support in its important and often delicate task.

My Lord,

Having been invited to speak on behalf of the legal profession, I thought it right that I should consult with as many private practitioners as I could to ask them what they wish me to include in my address to Your Lordship.

I have had two meetings with them, the first one was attended by 24 resident members representing 13 of the 18 firms in Brunei Darussalam, and the second meeting was attended by 25 lawyers representing 15 firms.

On both occasions I was much encouraged by their readiness to express their views regarding the administration of justice and to tell me the problems and difficulties they encounter in pursuing their clients' interest.

I have, therefore, incorporated in this address many of the points raised at those meetings which I consider appropriate for an occasion like this.

However, in fairness to those lawyers who, for whatever reasons, did not attend the practitioners' meetings, I would like to say that should they wish to dissociate themselves from any of my remarks purporting to represent the views of the legal profession, they should feel free to register their dissent with the Chief Registrar at the conclusion of these ceremonies.

My Lord,

Today as on similar occasions in the past, Your Lordship has referred to a wide range of issues vital to the efficient administration of justice.

The legal profession share Your Lordship's concerns about the shortcomings in such matters as the lack of proper sense of urgency on the part of enforcement agencies in the prosecution of criminal matters, the inordinate gaps between issues of Brunei Law Reports, the absence of any proper index of Brunei judgements and the non-production of an updated revised edition of the Laws of Brunei.

On the last subject, it will be recalled that Your Lordship was given an assurance as far back as six years ago that the matter was receiving urgent attention and that the work was being computerised.

The legal profession also wishes to support Your Lordship's suggestions regarding the need for changes to certain provisions in the law with a view to giving the courts greater discretion in appropriate cases in making orders or meting out punishments for certain offences, and also to confer on the Courts the power to order probation instead of imprisonment, and to pass suspended sentences.

I hope the authorities concerned will take note of Your Lordship's observations regarding juvenile offenders and take action to prepare the necessary legislation.

With regard to Your Lordship's proposal for the introduction of a system of public defender, I hope the learned Attorney General will look into this and the many other important matters which Your Lordship has today and on previous occasions, pointed out as requiring attention.

On the question of law enforcement, practitioners also raised with me the difficulties they very often encounter with regard to the enforcement of orders issued by the Courts in civil matters, such as warrants of arrest, warrants of committal and orders for the sale or repossession of land.

It would be most helpful if the Courts and the Attorney General could impress upon the police and other Government agencies that their role in enforcing orders of the Courts in civil matters is no less important than in criminal matters.

Your Lordship has also rightly made observations on such issues as reciprocal enforcement of judgements between Brunei Darussalam and other countries, preliminary inquiries, committal proceedings, motor insurance bureau, and the absence of provisions in our laws enabling proceedings against the Government and its servants in respect of wrongs committed in the course of Government business.

My Lord,

On my own behalf and on behalf of the legal profession, I join with Your Lordship in urging the authorities to give due consideration to these proposals which if acted upon can only enhance the image of Brunei Darussalam as a nation with a modern, developed, efficient and independent Judiciary.

On the subject of motor insurance, Your Lordship has referred to the increasing number of those who drive motor vehicles when they are not insured.

The mounting number of fatalities on Brunei Darussalam roads is a matter of grave concern. Without wanting to appear as trying to influence the Courts, I respectfully submit that Magistrates can play an important part in helping to reduce such incidents by imposing deterrent sentences in appropriate cases.

My Lord,

Members of legal profession, especially those who are citizens and permanent residents, wish to express their appreciation to the Attorney General for the important changes to the provisions of the Legal Profession Act pertaining to qualifications required of non-locals before they are allowed to practise in this country.

Your Lordship has also touched upon the matter of pupillage for newly qualified lawyers.

It is common knowledge among lawyers that in most if not all other jurisdictions with a legal system similar to ours, lawyers intending to practise are required to undergo pupillage.

There is a general consensus among practitioners that the time has come for this requirement to be introduced in Brunei Darussalam so that the public could be assured of the quality and competence of lawyers practising in this country.

My Lord,

There is also the outstanding matter of the setting up of a Law Society as provided for under section 62 of the Legal Profession Act.

As Your Lordship is aware, it is now 13 years since most of the provisions of the Act came into force, and it is high time consideration was given to implementing the remaining provisions, particularly those relating to advocates and solicitors.

My Lord,

Your Lordship has also alluded to the need for legal fees charged by practitioners to be monitored and scrutinized by an independent person such as a Registrar.

This I submit is a perfectly reasonable proposal which I feel lawyers will support and litigants will welcome.

Talking of lawyers and litigants reminds me, My Lord, of a cynic's view of the law and its practitioners that, present company excepted, clients lie, lawyers overcharge, and judges get it wrong.

My Lord,

On a more personal note, today's ceremonies bring back happy memories of my eight years with the Attorney General's Chambers which I had joined in March 1962 as Assisting Counsel and Deputy Public Prosecutor, having earlier that same year been called to English Bar at the Middle Temple.

My service in the Legal Department culminated with my appointment as Deputy Attorney General in 1968, but two years later I was moved elsewhere.

Although my career as a government lawyer ended in 1970, my love of the law has not diminished.

I hope Your Lordship will forgive me for indulging in this self-introduction, but I did so lest anyone in the audience should think that an interloper is in their midst.

My Lord,

I have now come to the end of my address. I do apologise for taking so much of Your Lordship's valuable time, but considering that the last time I had the privilege of addressing the Court on an occasion like today's was 22 years ago, I have taken the liberty of speaking longer than I would have done had I already spoken last year or the year before.

I hope I have not thereby discouraged the non-lawyers among Your Lordship's distinguished guests from attending future ceremonies.

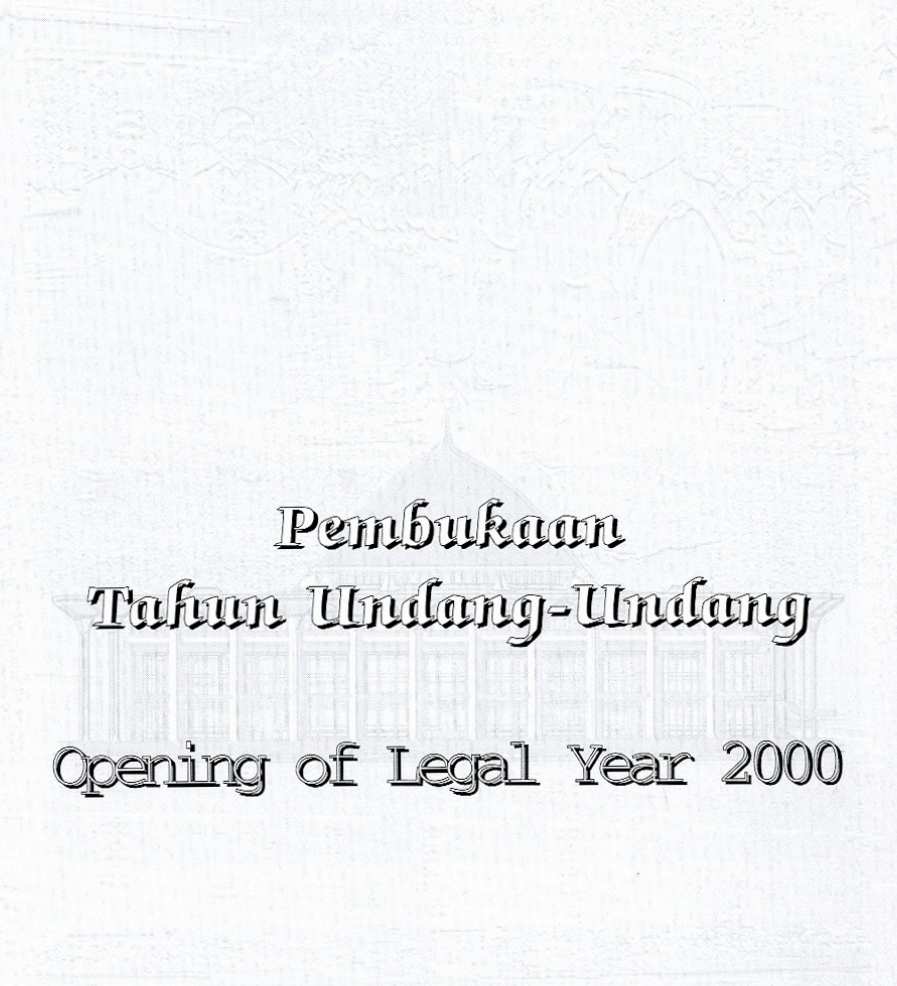
May it please Your Lordship.



Highlights
2000/2001

THE JUDICIARY AS AT 1ST JANUARY, 2001





**Pembukaan
Tahun Undang-Undang
Opening of Legal Year 2000**

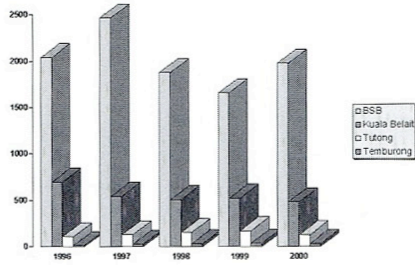




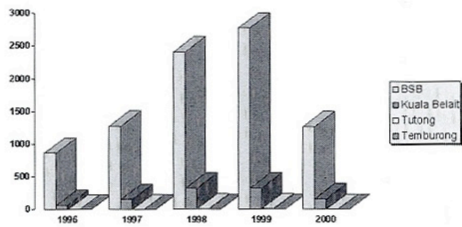


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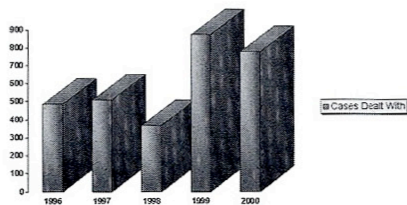
MAGISTRATES COURT CRIMINAL CASES 1996 - 2000



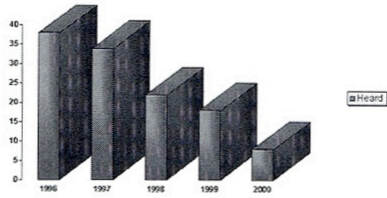
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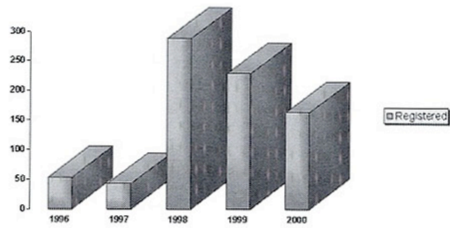
CHAMBER HEARINGS BEFORE SENIOR REGISTRARS AND REGISTRARS



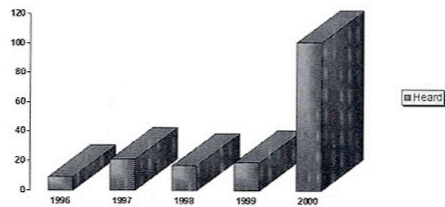
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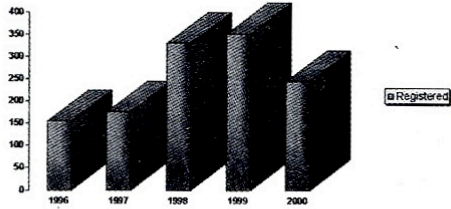
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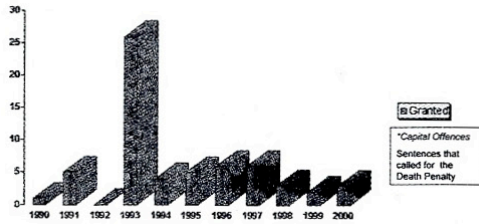
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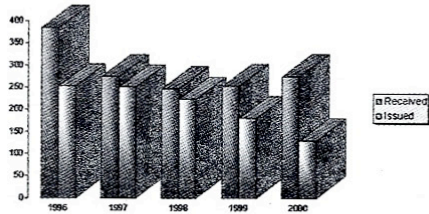
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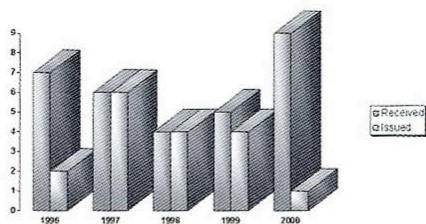
LEGAL AID FOR CAPITAL OFFENCES* 1990 - 2000



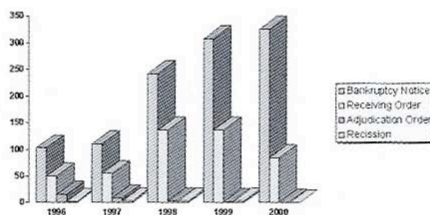
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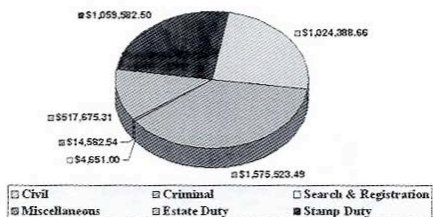
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BANKRUPTCY



THE REVENUE OF THE JUDICIAL DEPARTMENT FOR THE YEAR 2000





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PUBLIC WORKS DEPARTMENT

ELECTRICAL SERVICES DEPARTMENT

RADIO AND TELEVISION BRUNEI

ORGANISING COMMITTEE FOR THE OPENING OF THE LEGAL YEAR 2001

AND OFFICERS AND STAFF OF THE JUDICIARY

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