

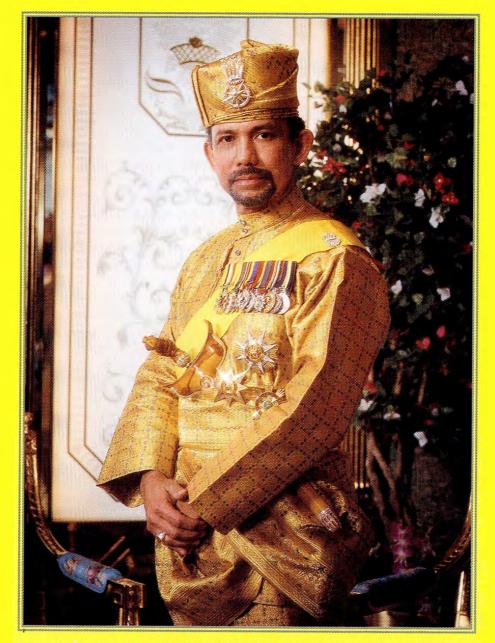
The Opening of

the Legal Year

2008

18 March, 2008 10 Rabiulawal 1429

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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

FOREWORD

Bismillahir Rahmanir Rahim

I warmly welcome you to the ceremony marking the Opening of the Legal Year 2008.

Two years ago represented the start of a new era for the Judiciary with the Subordinate Courts housed in a separate building. I am happy to report as part of our short term strategic plan we are in the process of building the new Temburong and Tutong Subordinate Courts buildings. It is hope this will come into light at the very near future.

This occasion is also an opportunity to reflect on the past year and to renew our commitment to continuously strive to improve our services and the Justice system and to make it more responsive to the public needs.

The success of this occasion is owed greatly to the effort of various people. I would like to take this opportunity to express my appreciation and gratitude to the members of the organising committee and various Government Departments in ensuring the smooth running of today's event.

On behalf of the Judiciary, I thank you all for your presence today and wish you all the very best in the endeavours that await you in 2008.

PENGIRAN ROSTAINA BINTI PENGIRAN HAJI DURAMAN CHIEF REGISTRAR (CHAIRPERSON OF THE ORGANISING COMMITTEE)



SPEECHES

DURING THE OPENING OF THE LEGAL YEAR 2007

Dato Seri Paduka Mohammed Saied The Chief Justice

Honourable guests, Ladies and Gentlemen, good morning and welcome.

Another year has gone past, leaving some of us aghast

at the speed at which the 365 days have become part of history. This is the usual comment one hears at the beginning of a new year.

But that is not all. Wisdom and sagacity lies not in celebrating on the pretext of welcoming a New Legal Year, rather it should remind us that it is time we took stock of ourselves, our profession and what we have achieved and what has been carried forward to this New Year.

In keeping with tradition I shall now state the figures of the various types of cases for 2006. Starting with the Magistrate's Court, and criminal cases first, the Court in Bandar Seri Begawan had 2662 cases registered, this being 247 more than 2005; Kuala Belait Court the figure was 310, that is, 122 less than the previous year, Tutong Court had 83 registered in 2006, that is, 40 less than in 2005; likewise Temburong had only 6 as compared with 32 in 2005.

The figures for civil cases registered in the Magistracies were: in Bandar Seri Begawan 1926 suits filed in 2006 as against 783 in the previous year; Kuala Belait Court showed the figures of 104 registered in 2006, this being only 4 more than the previous year; Tutong Court had 5 registered in 2006; that is 2 less than 2005 and in Temburong Court no civil matters were filed in the last two years.

The Intermediate Court had 193 civil matters registered in 2006, this being 3 more than in 2005, and 19 criminal matters were registered in 2006, this being 3 less the previous year; 8 civil appeals from decisions of the Magistrate's Courts were filed in the High Court in 2005, this being 5 more than in 2004, and 23 criminal appeals were filed in 2006, this being 18 less than in 2005.

Coming now to the criminal cases heard by the High Court, in 2006 it dealt with 22 cases as against 29 in 2005; and 174 civil cases were filed in the

High Court in 2006 as against 196 the previous year. Civil appeals to the Court of Appeal from the Intermediate and the High Courts numbered 17 in 2006, that is, 4 less than in 2005; and criminal appeals to the Court of Appeal in 2006 were 14 in number, this being one less than the previous years. Chamber hearings before the Senior Registrars and Registrars had jumped to 554 in 2006 from the figure of 231 in 2005.

With regard to bankruptcy matters in 2006, 387 bankruptcy notices were issued; 305 receiving orders made; 114 adjudication orders were issued; 29 rescission orders made; no discharge of adjudication orders and 2 winding up orders were issued, as compared to 354, 171, 44, 19, 1 and 3 respectively in 2005.

Still on figures, there were 237 letters of administration issued in 2006 as compared to 264 in the previous year; of the 10 probate matters registered in 2006, 7 were issued. 161 civil marriage ceremonies took place in 2006, 3 more than in the previous year; and 22 divorces were registered in 2006 compared to 16 in 2005.

Legal aid was provided to 7 accused persons in capital cases in 2005 and none in 2006.

Lastly, the total revenue from civil and criminal matters, searches and registration matters amounted to \$2,721,021.34 and fees paid in respect of miscellaneous matters came to \$3,150.00. Estate duty paid totalled \$859,261.58 and stamp duty paid amounted to \$1,454,506.88.

I do not think that it is an easy task to look at ourselves critically, and take account of our achievements and the opportunities missed over the year that has gone by for, generally speaking, there always are numerous highs and the lows in our lives of the days gone by. I think it is important, therefore, in so far as the Courts and the Bar are concerned, that I should remind the learned members of the Bar of the existence of the supervisory role of the Law Society. I appreciate that I discussed this topic in the past but as Cicero reminded the citizenry, 'the good of the people is the supreme law', it is just so that I should revisit the past to refresh our memory of what people expect of our advocates and solicitors.

As is well known, advocates are important adjuncts in the achievement of justice for all who come to these courts seeking settlement of their disputes and legal problems. Thus the role of judges and lawyers is of significant

importance. This reminds me of the address delivered by Justice Sardar Muhammad Iqbal, Chief Justice, Lahore High Court, Pakistan, to the District Bar Association in December 1975, (reproduced in the Malayan Law Journal [1977] 1 MLJ viii), under the heading "The Role of Lawyers and Judges", and the learned Chief Justice said, "The Bench and the Bar must be regarded as component parts of the foundation rock on which is based the pragmatic functioning of basic activity of the State, that is, administration of law and order.

No society, without a harmonious system of administration of law and order, can continue to exist as a civilized society. What is of utmost necessity for saving a society from reverting to the law of jungle is a strong integrated Bar and Independent Judiciary.

Upon the proper functioning of the Courts depends not only the enforcement of rights and liabilities, such as those between individuals, but also the protection of the individual against arbitrary government and the protection of society against the lawless individual. The proper functioning of the Courts, however, depends a great deal upon the performance of the Bar. If the Bar is capable, conscientious and responsible, the quality of judicial performance is likely to be good: if not, the quality of justice is likely to be deficient." [Emphasis supplied].

These comments set out concisely the individual roles of the Bar and the Judiciary, emphasizing I think, the importance of the performance of the Bar, upon which rests the ultimate quality of justice that the Courts will administer. The advocate's role is: the training of one who is called to the Bar to understand that a member of the Bar is a helper in the administration of justice, that he is there to help the judge, and, when there is a jury, to help the jury, to arrive at the proper result in the dispute between the parties – Beevis v Dawson and Others [1956]3 All ER 837, CA., at p. 839.

It brings to mind a comment made by an American Supreme Court Justice, Judge Sandra Day O'Connor, quoted in the New Lawyer's Wit and Wisdom, complied by Kathryn Zullo, at p. 209. The learned Judge said, "I have watched with great sadness the decline in esteem held by our society of lawyers. There must be a rediscovery of civility in the profession."

That same "decline" has been clearly noticeable locally too, not only by the courts but also by those watching the performance of the profession. There may be voices of dissent from the practitioners, arguing that this statement

of the learned Judge is too wide, that it does not and cannot envelop the entire membership of the Law Society. But they should be reminded, I think by way of retort, of the proverbial 'single rotten egg', that the Law Society should watch out for and deal with such 'rouge' element in a manner that would serve as a deterrent to others of the Law Society.

I emphasise that our Law Society has an uphill task ahead of it. Being the first one in the country, not only does it have the duty to chart the path ahead for the present but also for the next generation. It is for this reason that the members of the Society carry a heavy burden of dealing with the complaints that the Society might receive, with a firm yet even hand, thus setting precedents for the future.

The complaints against the members of the profession may be few and are bound to be about different topics. It is up to the Society to prove its worth and hand down its decisions even handedly, keeping at the forefront of their mind that they are required to act without fear or favour.

What is often overlooked is how the members of the profession behave and conduct themselves in the community as well as in the Courts of Law. They are required by the nature of their calling to set an example of excellence, impartiality and honesty, not forgetting that it is considered to be an unforgivable sin for counsel to try to deceive or mislead the Court in any manner so as to gain the upper hand. An advocate deceives or knowingly or recklessly misleads the court when, according to "The Guide to the Professional Conduct of Solicitors", 8th ed., 1999, a publication of the Law Society of the United Kingdom.

"he or she puts forward to the court, or lets the clients put forward, information which the solicitor knows to be false, or is reckless as to its truth, with the intention to secure a result which would not otherwise be secured. The defence solicitor need not correct the information given to the court by the prosecution or any other party which the solicitor knows will have the effect of allowing the court to make incorrect assumptions about the client or the case, provided the solicitor does not indicate in any way his or her agreement with that information." [Annex 21F, page 404].

This is an elementary, yet basically an important principle, which is taken for granted by members of the public and the courts. Yet, experience has shown that not all practicing lawyers are true to their professional oath and conduct themselves in a manner, which brings the profession into disrepute. Whatever the reason for their conduct, be it to win litigation by hook or by crook to impress the client or to seek reputation or be it simply for financial gain, soon enough a minor incident is sure to blow their cover and project them in their true colours for what they really are worth.

I imagine that such unscrupulous advocates are to be found everywhere, and Brunei Darussalam can be no exception. However, these characters bring the entire profession, reputedly the noble profession, into disrepute, not overlooking the fact that such conduct may, depending upon the manner in which litigation is conducted in court by the particular counsel, tarnish the entire judicial process, as well as the image of the Judiciary. They should be aware of the fundamental principle that advocates "have an overriding duty to the court to ensure in the public interest that the proper and efficient administration of justice is achieved: they must assist the court in the administration of justice and must not deceive or knowingly or recklessly mislead the court".*

Beside their overriding duty to court to ensure in the public interest that proper and efficient administration of justice is achieved, the advocates have to be bold to the extent that they, "must promote and protect fearlessly and by all proper and lawful means the clients' best interests and do so without regard to their own interests or to any consequences to themselves or to any other person (including professional clients or fellow advocates or members of the legal profession)".*

Now that we have the Law Society, it is expected that it will not be slow to effectively deal with or shun any 'rogue' characters who display the tendency to act to the contrary, keeping always at the forefront of their minds, the words of the 4th century B.C. philosopher Socrates, "Nothing is to be preferred before Justice", which, to my mind, advocates ought not ever forget or ignore. They should attempt to fully comprehend the wisdom of this maxim, and never during their time at the Bar let it be erased from their minds.

I should think that it is not difficult in not too large a community to get to know of the activities of others of the same profession. Nevertheless, the Law Society will not act on mere rumours or speculation of any wrong doing without any complaint from an aggrieved party first having been registered against the advocate who had been acting for him. Perhaps lawyers would benefit from a comment, which the great man, Sir Winston Churchill, once made, "Never stand so high upon a principle that you cannot lower it to suit the circumstances."

Hopefully this might be of some guidance to counsel who are habitually at sea, when making their closing speeches, to heed this beneficial advice which is bound to save a good deal of valuable time for everybody.

So, now, members of our noble profession are on notice: any infraction of the rules of conduct and practice brought to the attention of the Law Society will, hopefully, be dealt with promptly and appropriately. Let them heed the words of Francis Bacon, the English philosopher and writer, "If we do not maintain Justice, Justice will not maintain us."² The gauntlet has been thrown; let them prove that Sidney J. Harris, British-American writer, was wrong when he said,

"Bar associations are notoriously reluctant to disbar or even suspend a member unless he has murdered a judge downtown at high noon, in the presence of the entire Committee on Ethical Practices."³

Still on the topic of the practicing members of the Bar, it seems to have become habitual for some of them not to attend Court on the date that had been fixed in their presence for the next mention of a criminal matter, and instead ask another advocate, who is almost invariably ignorant of the subject matter or the reasons for the mention, to attend on their behalf. This conduct exposes their utter lack of respect for the Court as well as blatant ignorance of what the word "mention" in this particular regard means. The basic point clearly is that they are under instructions by the accused person to represent him, and this means to represent him personally in Court or in Chambers on any date fixed by the court in the presence of the advocate and his client, one exception to this rule of practice being the advocate being unwell for which a medical certificate from a Government hospital would suffice; there may be other reasons but those have to be cogent and supported by a relevant certificate from a recognized authority. The accused, who more often than not, is held in remand custody in the prison, is brought up into court, but missing is the counsel who had been instructed by the accused; instead some other counsel stands up and informs the Court hat he appeared for the accused on behalf of his counsel, who was out of the country on some errand or for some other reason.

On the face of it, it may look satisfactory, but it is? The absentee lawyer did not have the courtesy of personally applying to court for permission to leave the jurisdiction, perhaps he did not know of the existence of this basic principle that he could not just disappear at his own whim and fancy or for, the so called, very important matter abroad or whatever reason, which usually is the excuse put forth by the Good Samaritan stand-in lawyer filling in the gap left by the absentee counsel.

It is a basic principle that, where counsel has been retained by an accused person who is being held on remand or is on bail, he ought to be there in Court on the date that had previously been allotted either for the trial or for mention.

This word 'mention' is about the exercise of the Court's inherent jurisdiction to adjourn a criminal matter before or after a plea has been taken from an accused person, for some reason pertaining to the accused or for some matter relating to the prosecution of the case and brought to the Court's attention by either party, which necessitate adjourning the matter to another date to enable the party applying for such postponement to deal with the matter, thus facilitating smooth progress of the trial without any interruption once the trial proper has commenced. This procedure is helpful to both parties in that documents such as witness statements etc. may be made available to the other side, or generally to clear away any other potential problems that might cause some delay to the trial if not dealt with beforehand.

It is clear therefore that 'mention' of the case is an exercise geared towards the smooth and uninterrupted progress of the trial once it starts, save for some unexpected development that the parties might not have perceived beforehand. As such 'mention' of a criminal matter is an important step in the preparation for a smooth progress of the trial proper.

It is fundamental that attendance of counsel on any date fixed either for mention or for trial may be dispensed with by the Judge in charge of the case for good cause shown in person by the advocate who had been retained by the accused, the prosecutor also having an opportunity to make any comment on the application. All this usually takes place in the presence of the accused person.

Thus the practice to make light of the mention date projects either ignorance of the rules of conduct, or deliberate non-compliance thereof and is, in my opinion, improper an inexcusable, as it shows that the advocate concerned has "forgotten that the main purpose of the law profession is to serve the public interest",* which is not served by such shoddy and, may I add, irresponsible conduct of the advocate retained by the accused.

I think, therefore, that this is an appropriate occasion to sound this warning to those who, by their conduct, challenge the inherent jurisdiction of this court over advocates as officers of the Court, and choose deliberately to disregard it or pay scant regard to its importance and to the dignity of the court, may be liable to be held in contempt of Court and to suffer such punishment as the Court may, in its absolute discretion, mete out to them for their misconduct.

One significant matter spilling over from the last year into the current year ought to be mentioned, and this concerns capital cases, those being cases for which the law has provided the death penalty. According to the latest list of such cases awaiting trial, provided by the Prosecuting Section of the Attorney General's Chambers dated 5th March, there are eight such cases awaiting trial in the High Court: six are drugs related cases, one fir-arms case and one murder case. The law as of now prescribes that two judges shall hear such cases. This leaves one other judge and the Chief Registrar who wears two hats in that he acts in a dual capacity: that is, carrying on with his substantive duties of chief Registrar and also sitting as a Judicial Commissioner which, is a tenuous arrangement but it highlights the pressing need for at least one more full time Judge. The sooner the complement of the present full-time High court judges is increased, the better it will be for clearing up the backlog, and keeping pace with the increasing work-load in the High Court.

This is perhaps not properly appreciated in some quarters, thus adding to the accumulation of the backlog of criminal and civil workload of the present complement of judges. It follows that any undue delay in the disposal of criminal cases has the undesirable effect of enhancing further the incarceration of those accused persons who are held in remand custody because of the seriousness of the alleged crime committed by them, thus burdening such accused with the uncertainty of their fate.

This problem has been recognized by other jurisdictions, Malaysia for example amongst others. They have adopted the practice, which I have no hesitation in recommending strongly that we should follow as well, of one judge hearing capital cases. This is not usual since it is already being practiced by some other common law jurisdictions, thus affixing the seal of approval upon the practice and procedure of the conduct of the trial by one judge, and confirming also that in no way is the quality of justice harmed or affected in maintaining its standard in any manner or form. The accused person does not suffer any disadvantage or prejudice, nor does the prosecution steal the march over the accused. In the event of conviction of the accused by a single judge, the accused is free to appeal to the Court of Appeal.

Thus in the local context, one judge will be spared to handle some other matters. It is manifest therefore that this procedure provides for a speedy trial for the accused persons facing capital charges and I should repeat that this procedure and practice be adopted and that the sooner it is done, the better will it be for all those concerned, especially the accused persons who will not have to wait a long time for their trial as is the case at present.

I can say with confidence that our judiciary is fortunate to have experienced judges who are capable of dealing with such capital offences sitting alone.

Just a brief note of information before I finish, our Magistrates move out of this Courthouse on 15th May 2006, and are now housed in the newly built beautiful building called the Law and Courts Building, within a short walking distance. However, walking over to the Magistracy now by the shortest route has one hazard to overcome. This is to cross over a ditch immediately next to which is the boundary wall, at the most 2-3 feet high. To overcome this problem, a wooden structure of some planks has been placed at the spot, leaning on the ground on our side. The majority is of the view that we should have a proper covered walkway commensurate in style with the buildings it would connect, those being the High Court building to the Magistracy and then on to the Attorney General's building.

I should take this opportunity of thanking the police, the prosecutors, all other police institutions concerned with crime prevention and detection and the prison authorities, for their arduous task. The courts appreciate and applaud their efforts in this regard and for keeping the courts busy.

Lastly, may I express on behalf of the Judiciary and on my own behalf our thanks to you all for sparing some of your valuable time to enable us to keep you informed of the functions, achievements and hopes of the Judiciary. I am particularly grateful for your patience in listening to what I had to say. I now call upon the Honourable the Attorney General to address this gathering, and he will be followed by the President of the Law Society.

At the conclusion of all the speeches, would you please proceed to the ground floor for refreshments.

Chief Justice Dato Seri Paduka Mohammed Saied

The Hon. The Attorney General Dato Seri Paduka Haji Kifrawi bin Dato Paduka Haji Kifli



<mark>Bismillahir</mark> Rahmanir Rahim Assalamualaikum Warahmatullahi Wabarakatuh

My Lord, Judges and Judicial Commissioner of the Supreme Court

President of Brunei Darussalam's Law Society

Members of the Bar

Distinguished guests

Ladies and gentlemen

It gives me great pleasure to address Your Lordship again on this occasion. We are thankful to Allah Subhanahu Wata'ala for His blessings in making it possible for us to once again be present at this ceremony this morning and to renew our usual pledges of cooperation and mutual support for the upholding of the independence of the judiciary and the rule of law.

NEW LEGISLATIONS

In 2006 and early this year, several new laws have been made. As usual I would like to mention several notable Orders.

1. CENTRE FOR STRATEGIC AND POLICY STUDIES ORDER, 2006

This Order establishes the Centre for Strategic and Policy Studies and for matters connected therewith. The functions of the Centre include the advancement and dissemination of knowledge and the promotion of research on Brunei Darussalam and on all matters appertaining to Brunei Darussalam's interests.

2. CIVIL AVIATION ORDER, 2006

This Order repeals the Air Navigation Act and establishes a regulatory framework for monitoring, enhancing and promotion of the safety of civil aviation in accordance with the principles of the Convention of International Civil Aviation.

Generally, this Order deals with the organisation and administration of civil aviation, aircraft, personnel, aircraft operations, air transport, aerodromes, liability and insurance and security of civil aviation.

3. INTERMEDIATE COURTS ACT (AMENDMENT) ORDER, 2006

This Order amends the civil jurisdiction of the Intermediate Courts to enable the courts to hear every action in which the amount claimed or value of the subject-matter in dispute is from \$50,000 up to \$100,000 instead of from \$15,000 up to \$100,000.

4. MINOR OFFENCES ACT (AMENDMENT) ORDER, 2006

The power to arrest without warrant any person who has committed any of the offences under section 12 of the Minor Offences Act (that is, with regards to offences in respect of uncleanliness in public places and unauthorised dumping), which previously is conferred only to police officers can now be exercised by a Municipal Inspector, Inspector of Health, any District Officer and any person authorised by him, the Director General of Public Works and any person authorised by him, and the Director of Environment, parks and Recreation and any person authorised by him.

The penalty for a conviction for a second and subsequent offence under section 12 of the Minor Offences Act, in addition to a fine of \$3,000, shall also be imprisonment for a term not exceeding 3 months. This Order also confers on any person authorised by the Minister of Home Affairs the power to investigate the commission of offences under the Minor Offences Act and any rules thereunder.

5. SMALL CLAIM TRIBUNAL ORDER, 2006

This Order establishes the Small Claims Tribunal and provides for its jurisdiction, procedure and practice. The Small Claim Tribunal shall be a Court of Record consisting of adjudicators. The Small Claims Tribunal can hear and determine claims relating to disputes arising from any contract for sale of goods or the provision of services and any claim in tort in respect of damage caused to any property. The jurisdiction of the tribunal does not extend to a claim which exceeds \$10,000.

6. TABUNG AMANAH PEKERJA ACT (AMENDMENT) ORDER, 2007

This Order is about the status of contributions in the Tabung Amanah Pekerja (Employee Trust Fund) account as savings for retirement. The contributions cannot be used to pay any employer for financial loss incurred as a result of the commission by the employee of an offence under the Penal Code and the account cannot be withhold and credited for payment of any debt or claim.

7. This Order amends the definition of "police officer" in the Criminal Procedure Code to include other person invested under any written law with the powers of a police officer.

This Order confers power to "police officer" making an investigation to obtain body samples for forensic analysis if the "police officer" has reasonable cause to believe that the body sample may confirm or disprove the involvement of a person in an offence punishable with imprisonment.

If consent is refused without good cause or cannot be obtained, an order of a magistrate may be obtained for him to provide the body sample required. Where it is shown that consent was refused without good cause, the court may draw such interference from that refusal as it thinks proper.

Any person from whom a body sample is lawfully required who refuses, without reasonable cause, to give a body sample or to allow it to be taken from whom, or who hinders or obstructs the taking of a body sample is guilty of an offence. This Order further provides a body sample to be taken by a person registered under the Medical Practitioners and Dentists Act, a police officer who has received training for that purposes or any other suitably qualified or trained person who is authorised by the Commissioner of Police for that purpose. These people may use such force that is reasonable necessary for taking the body sample if the person refuses to give his body sample, refuses to allow his body sample to be taken or hinders or obstructs the taking of his body sample.

REVIEW OF ADMINISTRATIVE ACTION

His Majesty The Sultan and Yang Di-Pertuan of Brunei Darussalam has consented in the past for the making of many laws which are in general for the public interests. In making such laws which are in general for the public interests. In making such laws it is usual for posers to be given to public officers to enable them to implement the laws. It is important that the powers are not abused or wrongly exercised. We have the laws or provision in the law or usual administrative practice to prevent such abuse or wrongful exercise of powers such as the Prevention of Corruption Act and the Penal Code, provision for appeal either to the court or Minister or in general to His Majesty The Sultan and Yang Di-Pertuan of Brunei Darussalam or by way of administrative review or inquiry.

In some countries, the courts have powers to review administrative actions but such countries usually have an army of lawyers to deal with the complaints (lawyers for the courts, lawyers for the victims or complainants and lawyers for the Government or public authority).

Such adversarial system of judicial review, furthermore, may not be suitable for Brunei Darussalam.

In general, powers should be exercised reasonably and fairly in accordance with the law. By ensuring proper exercise of powers given by the laws, public servants would give better service to the public. This would be consistent with His Majesty's recent national day speech in which His Majesty reminded the Civil Service to improve their performance for the good of the public. My officers are ready to assist those officers who need clarifications as regards powers given to them by the relevant laws.

LAW WHICH HAVE NOT BEEN IMPLEMENTED

There are still laws which His Majesty The Sultan and Yang Di-Pertuan of Brunei Darussalam has consented to be made but are still not implemented. This could be due to lack of trained manpower and other teething problems. We need to resolve whatever stumbling block urgently in the public interests bearing in mind that those laws are meant to promote and protect public health, public safety and the rights of the public to property.

Perhaps this could be the right time to remind the court when the Small Claim Tribunal Order which became law on 22 August 2006 would be implemented.

CHIEF REGISTRAR

I would also like to express my appreciation to the hard-work by the Chief Registrar of the Supreme Court. The Chief Registrar who is the Probate Officer and Official Receiver is also appointed as Judicial Commissioner who has the same powers of a Judge of the Supreme Court to hear criminal and civil cases. The Chief Registrar, therefore, has to deal not only the difficult legal/judicial work but also to the demanding tasks of ensuring that our judicial machinery is running efficiently.

Such tasks include -

- a. to ensure cases are fixed promptly for hearing either by the Registrars or by the appropriate courts and disposed off without undue delay;
- b. that the court-users including victims, defendants, witnesses, lawyers, prosecutors, law enforcement officers, judicial staff and officers are comfortable and well looked after;
- c. that the court facilities and court staff are adequate, reliable and efficient.

I am sure that Chief Registrar require that solid support and the good understanding of his team of Registrars, Chief Magistrate, Interpreters, other court staff and the Judicial Department set up few years ago to assist him in the maintenance of our machinery of justice for the good judicial administration of our courts.

CAPITAL CASES

The system of two judges hearing a case punishable with death is now becoming a tradition in this country. This system replaced the old procedure of a single judge sitting with assessors who were members of the public and who usually were non-lawyers. These assessors are like members of the jury in other countries. Since the present system has, over the years gained public confidence were should be slow in replacing such a system of two judges with a single judge. Furthermore, I do not believe we have a serious backlog in the court of capital cases, in particular, and other cases, in general. Only for the last few years the court has to deal with one or two rather unusually long and complicated High Court cases. The situation, therefore, does not warrant a radical change in our legal system. If necessary, the solution to this is to increase the number of Supreme Court Judges.

ENVIRONMENT

My Lord, over the years we have experienced and seen huge environmental degradation in the world mainly due to human economic activities. In our part of the world, the forces damaging the environment are the same ones that drove the economic miracle that has helped millions of our poor population. Economic growth means more production, more jobs, more food, but it also means more smoke, more logging and more chemicals dumped into the waters. Where Brunei Darussalam is concerned, environmental protection and conservation have been integral components of the State's development process to ensure sustainable development is in line with the long term objective of maintaining a clean and healthy environment. Policy regarding the environment has been addressed in all the National Development Plans following Brunei Darussalam's Independence in 1984 under the long term objectives of 'improvement of the quality of life of the people" fostering a "more disciplined, self reliant and caring society" and maintaining a "clean and healthy environment". The Eighth National Development Plan (2001-2005) had the following initiatives:

Ensure sustainable utilisation of natural resources;

Prevent and reduce the negative impacts on the environment arising from increase in population and human activities;

Ensure a balance between socio-economic development objectives and the importance of maintaining quality and a sustainable environment;

Enhance the appropriate use of the latest, effective and environmentally friendly technology;

Strengthen regulation and enforcement measures;

Enhance public awareness and support; and

Improve existing facilities and services.

To date, Brunei Darussalam has acceded to several international instruments relevant to the protection of the environment namely, Basel Convention on the Control of Trans-Boundary Movements of Hazardous Wastes and their Disposal (Basel Convention) on 16 December 2002, Vienna Convention on Protection of the Ozone Layer on 26 July 1990, Montreal Protocol on Substances that Deplete the Ozone Layer on 27 March 1993, Stockholm Convention on Persistent Organic Pollutants on 21 May 2002 and the United Nations Convention to Combat Desertification (UNCCD) in 2002. The Heart of Borneo Declaration signed on 12 February 2007 by Brunei Darussalam, Republic of Indonesia and Malaysia recognized the importance of the Island of Borneo as a life support system. Such sanctuaries would protect the biodiversity rich equatorial rainforest that straddles the shared borders of the 3 countries. It would also play a vital role in protecting all of the island's major water catchments and it is also hoped that illegal logging and wildlife trafficking will be reduced. The Heart of Borneo initiative is a voluntary trans-boundary cooperation of the three countries combining the stakeholders' interests, based on local wisdom, acknowledgement of and respect for laws, regulations and policies in the respective countries and taking into consideration relevant multilateral environmental agreements, as well as existing regional and bilateral agreements/agreements.

While there is no umbrella legislation dealing with environment, we are pleased to inform that my chambers is currently working with the various relevant Government agencies in the preparation of legislations to protect, preserve and conserve the environment. There was a slogan in the 1980s on biodiversity loss, that is, "extinction is forever". If we do not protect and preserve our environment now, what is there left for our future generations to enjoy? Once lost, it is forever.

My Lord,

I would like to thank all my officers from the various Divisions in the Chambers namely Criminal Justice, Civil International Law, Legislative Drafting and Registry for their hard work.

I would also like to thank all Ministries and Departments in particular the Prime Minister's Office for all their support, help and cooperation.

I would also like to thank the commissioner of Police and his officers as well as the other law enforcement agencies namely the Narcotic Control Bureau, Anti Corruption Bureau, Royal Customs and Excise Department, Immigration Department, Royal Brunei Armed Forces and Internal Security Department for their assistance and cooperation and in their continuing effort in the preservation and the maintenance of law and order.

May it please Your Lordship, this brings me to the end of my address. I hope that good relations between my Chambers and the Judiciary as well as with the private practitioners and the newly established Brunei Law Society will continue in the years to come. We are all responsible to uphold the integrity of our Legal System.

Lastly, I wish Your Lordship and everyone present here this morning a successful and prosperous year.

The Honourable Dato Seri Paduka Haji Kifrawi bin Dato Paduka Haji Kifli Attorney General

Ahmad Basuni bin Haji Abbas President, Law Society of Brunei Darussalam

My Lord Chief Justice, Honourable Justices of the Supreme Court of Brunei Darussalam, the Learned Attorney General, fellow Counsel, Colleagues, invited guests, ladies and gentlemen, Assalamualaikum warahmatullahi wabarakatuh and good morning.



At the outset on behalf of my colleagues, may we strongly recommend to your Lordship and those involved in the administration of justice to set aside, a period of time in the calendar year, to have what is commonly called a Courts' Vacation period. To those not familiar with this term, this is a period of time, say for a few weeks at the end of the year, where the Courts will not be sitting, or setting dates for trials or hearing chamber matters, aside from any urgent matters. The period of time can be useful to the Courts and those administering the judiciary to take stock of itself and review what had been achieved and what future plans the Courts can implement. This period of time will enable your honourable judges, registrars, magistrates to concentrate more on their paperwork, researches on law and other administrative matters related to their judicial functions.

It is an anomaly to have a yearly event such as this opening of the Legal Year when there appears to be no end. With the Courts' Vacation, we can treat that as the end of a legal year to be followed with an opening shortly thereafter. And a propose that such opening function to be done earlier in the calendar year rather than having it after quarter of the year has gone passed by when substantial work are in progress.

The need to take stock of things and assess the achievement, apprise the situation over the year is important for the administration of justice. The increasing numbers of cases being brought before the Courts call for extra judicial manpower. However there is also a need for better case management. We note that the backlog of cases both in civil and criminal matters are increasing. No longer are the days when a civil case can commence its hearing, within 3 to 5 months after the paper had been filed or for a criminal case to commence trial within 60 days after a person has been charged.

For serious criminal cases involving remand prisoners especially capital offences, the period of remand and detention will take away their personal liberties unfairly should they be acquitted at the end of the day.

This is where the Courts should take note of the well being of an accused for he or she is innocent until proven guilty. I am glad to note that on the occasion of the 86th Anniversary of the Royal Brunei Police Force on 18 January this year, the Honourable Commissioner of Police had taken up our concern which we brought up in our Opening of the Legal Year's speech last year, on the issue of the individual rights of a suspect being investigated. The Commissioner of Police, had reminded his officers on the need to respect the rights of the individual being investigated or arrested for an offence and to balance it with the proper and prompt investigation following rules and procedures. We hope other law enforcement authorities will follow the lead. As the main enforcement authority has taken up on this issue to respect the rights of an individual, the Courts being the final arbitrator of innocence or otherwise of a person, should compliment to uphold the need to respect the rights of an individual seeking justice. Therefore we should strive for speedy and fair trials.

For civil cases, delays mean higher expenses and loss of time will have to be borne by both defendants and plaintiffs, irrespective who wins at the end of the day. For the Registries and Magistrates' courts, we still need to iron out proper management of mentioning cases and chamber matters. To fix all chamber matters or cases to commence simultaneously at 9.00 a.m., show why the Courts need to assess on how to manage the cases appearing before them.

For 'mentions' cases, certain practitioners have been cited for paying less regard or attention to it. We, the Law Society can look into this. We recognize the inherent jurisdiction of the Courts and the due respect which should be accorded. On the other hand, we seek also the assistance from your Lordship and those in the administration, on matters involving non-appearance of those to whom we were supposed to appear before. More often than not, Counsel would find themselves at the very door of the Court or Chambers only to be told or sometime none at all, that their matters had been put off as the judicial officer was not around or available. And in the unlucky instances where no proper information was given to Counsel, the chasing for new dates thus begins. Alas, this is not the forum for exchanging such unpleasant experience. Let us find ways and means in the coming year to resolve this along the way in order to serve the greater public interests. On the development of the legal profession in this country, we are grateful to the Chief Registrar's office for extending to us every application for admission to the Brunei Bar and to Your Lordship in giving us the opportunity to appear before an ad hoc admission hearing to enable Your Lordship to listen to our views and take due consideration on any application for ad hoc admission by foreign counsel to practice in Brunei Darussalam.

I am glad to note that a number of cases had been disposed of where the views of the Law Society were taken into account. On this issue of admissions to practise in Brunei Darussalam by foreign lawyers, we have written and requested through the good office of my Learned Attorney General to take up with his respective counter parts from our closest neighbouring countries whom we share the same legal systems as ours to propose certain amendments to their respective laws to enable our members instead to apply for admissions in their respective countries. We have seen ASEAN integration for a very long period of time over other areas especially commercial and trade, and as usual, the legal profession is notorious for their slowness and is lagging behind in this spirit of integration. We hope that the Learned Attorney General will be successful in persuading his counterparts to accept us to practise beyond our horizon and appear before the Courts of our closest neighbouring countries. The Attorney General of our close neighbour remarked in his opening of the legal year speech this year, 'A thinning Bar can be an early sign of an ailing profession'. This statement was made as the their Bar has seen a reduction in the numbers of their practitioners and so we must seize this opportunity to gain entries to their practise.

We are also grateful to the office of the Attorney General in extending to us some draft legislation to peruse and comment upon in order to give our views, whatever worth it might have.

In conclusion, having said all these, we the Legal Profession will continue to support our judiciary and to uphold the basic principle of the rule of law. With that I conclude my speech and wish everyone present here a very pleasant day.

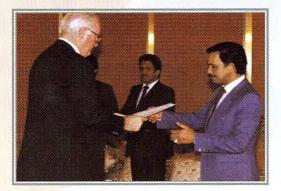
Thank you.

HIGH COURT BUILDING



KM 1½, JALAN TUTONG BANDAR SERI BEGAWAN BA1910 BRUNEI DARUSSALAM

COURT OF APPEAL JUDGES



President of the Court of Appeal Sir Noel Plunkett Power

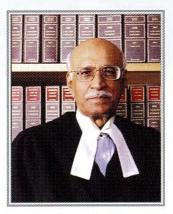
Judicial Commissioner of the Supreme Court John Barry Mortimer





Judicial Commissioner of the Supreme Court Geoffrey Lance Davies

HIGH COURT JUDGES



Chief Justice Dato Seri Paduka Mohammed Saied



Justice Datin Paduka Hayati binti POKSDSP Haji Mohammed Salleh

High Court Judge



Justice Dato Paduka Steven Chong Wan Oon



Justice Hairol Arni Haji Abdul Majid

High Court Judge

High Court Judge

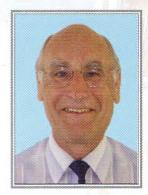
HIGH COURT VISITING JUDGES (Judicial Commissioners of the Supreme)



James Kerr Findlay



David John Leonard



Nicholas John Barnett



Gareth Lugar Mawson

CHIEF REGISTAR OF THE SUPREME COURT



Pg. Rostaina binti Pg. Haji Duraman Chief Registrar of the Supreme Court

INTERMEDIATE COURT JUDGE



Lim Siew Yen Intermediate Court Judge

OFFICERS OF THE SUPREME COURT AND HIGH COURT



Pg. Hajah Hanani binti Pg. Haji Metusain

Senior Registrar of Supreme Court



Radin Safiee bin Radin Mas Basiuni

Senior Registrar of Supreme Court



Ramzidah binti PDKD Haji Abdul Rahman

Senior Registrar of Supreme Court



Dk. Hajah Norismayanti binti Pg. Haji Ismail

Registrar of Supreme Court



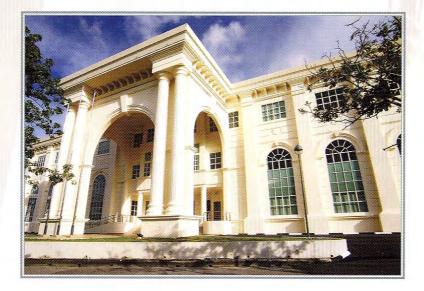
Hajah Hazarena binti POKSJDP Haji Abu Hurairah

Registrar of Supreme Court



High Court Officers and Staff

MAGISTRATE'S COURT BANDAR SERI BEGAWAN

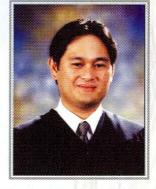


THE LAW AND COURTS BUILDING KM 1¹/2, JALAN TUTONG BANDAR SERI BEGAWAN BA1910 BRUNEI DARUSSALAM

OFFICERS OF THE MAGISTRATE'S COURT BANDAR SERI BEGAWAN



Haji Abdullah Soefri bin POKSM DSP Haji Abidin



Muhammad Faisal bin PDJLDDSP Haji Kefli

Senior Magistrate

Senior Magistrate



Lailatul Zubaidah binti Haji Mohammad Hussain

Magistrate



Harnita Zelda Skinner

Magistrate



Bandar Seri Begawan Magistrate's Court Officers and Staff

OFFICERS OF THE MAGISTRATE'S COURT KUALA BELAIT



Pg. Masni binti Pg. Haji Bahar

Magistrate



Kuala Belait Magistrate's Court Staff



Tutong Magistrate and Court Staff



1



Staff of Temburong Magistrate's Court

STATISTICS

MAGISTRATE'S COURT SUMMONS & CRIMINAL CASES

nan an	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
BSB	1880	1660	1973	2382	2774	2025	2180	2415	2662	3364
Kuala Belait	508	524	481	381	461	496	340	432	310	321
Tutong	152	171	128	124	151	194	103	123	83	144
Temburong	34	36	34	16	20	41	15	32	6	12

MAGISTRATE'S COURT CIVIL CASES

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
BSB	2411	2771	1266	1032	953	967	872	784	1926	1979
Kuala Belait	325	325	164	187	132	227	120	100	104	95
Tutong	13	13	1	8	10	25	7	7	5	11
Temburong	0	0	0	0	0	0	0	0	0	0

CHAMBER HEARINGS BEFORE SENIOR REGISTRARS AND REGISTRARS

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
CASE DEALT	368	872	777	636	604	254	253	231	554	454
WITH	C. Starte	and the	Se ar	14	Sec.	See and	Same and	100	Auge and	and and

INTERMEDIATE COURT CRIMINAL CASES

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
HEARD	22	18	8	14	9	11	16	22	- 19	21

INTERMEDIATE COURT CIVIL CASES

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
REGISTERED	289	230	164	134	128	114	123	190	193	135
	See See	the set			da de		The service	Sec.	Augustania -	AL W

CIVIL AND CRIMINAL APPEAL CASES [FROM MAGISTRATE'S COURT TO HIGH COURT]

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
HIGH COURT CIVIL APPEAL	3	5	8	11	14	19	7	3	8	8
HIGH COURT CRIMINAL APPEAL	51	57	67	130	159	75	41	41	23	31

HIGH COURT CRIMINAL CASES

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
				al in		10	10.00		10	
HEARD	17	19	101	147	124	22	42	29	22	11
			14		14	144		Sec. 19		

HIGH COURT CIVIL CASES

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
and the second s							12.4	1.1	and and	an air
REGISTERED	330	352	245	208	211	214	316	196	174	161
and the second second				1000	and the second	Carl Street			and the second	114 19

CIVIL AND CRIMINAL APPEAL CASES [FROM HIGH COURT AND INTERMEDIATE COURT TO COURT OF APPEAL]

Second Second	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
COURT OF APPEAL (CIVIL)	15	14	15	20	17	11	16	21	17	20
COURT OF APPEAL (CRIMINAL)	8	14	30	19	16	10	20	15	14	17

LEGAL AID FOR CAPITAL OFFENCES

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
CD I MEND	1					100				12.00
GRANTED	4	2	6	1	0	3	1	7	0	5

LETTERS OF ADMINISTRATION

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Received	247	253	275	363	343	381	294	318	323	321
Issued	223	180	130	276	254	286	206	264	237	277

PROBATE

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Registered	4	5	9	13	4	12	5	9	10	11
Issued	4	4	1	12	3	7	2	6	7	8

BANKRUPTCY

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Bankruptcy Notice	242	308	326	350	261	343	281	350	387	351
Receiving Order	73	168	203	165	181	218	161	220	303	268
Adjudication Order	29	28	15	32	80	26	23	56	114	78
Recission	3	8	6	13	19	-	1	19	29	35
Discharge of Adjudication Order			Ŀ		-	4	3	1	0	
Winding-Up Orders	2	8	4	6	5			3	2	1

MARRIAGES

And the second se	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Marriages	198	178	198	152	168	167	140	158	161	143
Divorce	27	37	19	26	16	25	20	16	22	21

THE REVENUE OF THE SUPREME COURT BRUNEI DARUSSALAM

	1998	1999	2000	2001	2002
Revenue	3,642,234.54	4,146,204.02	4,196,403.49	4,388,148.76	5,129,548.35
Miscellane- ous	10,922.50	13,961.09	14,582.54	8,758.31	12,999.53
Estate Duty	808,593.43	968,869.59	517,675.31	851,719.62	281,198.54
Stamp Duty	450.855.17	572,068.86	1,059,582.50	901,465.97	1,677,089.80

	2003	2004	2005	2006	2007
Revenue	4,685,958.79	3,706,381.84	4,790,759.70	2,721,039.34	2,694,914.38
Miscellane- ous	9,433.24	22,088.09	4,300.00	3,150.00	3850.14
Estate Duty	1,010,928.40	122,783.23	381,485.52	859,261.58	646,003.00
Stamp Duty	1,103,952.54	1,051,265.32	1,772,858.57	1,454,506.88	4,080,803.89

EVENTS 2007

APPOINTMENT OF NEW JUDICIAL COMMISSIONERS OF COURT OF APPEAL AND THE HIGH COURT

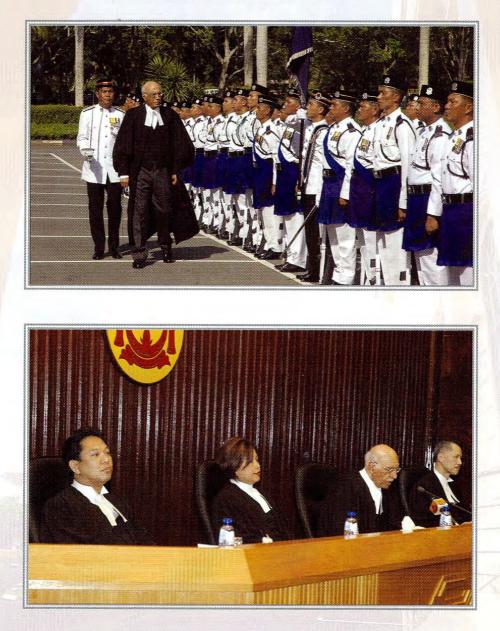


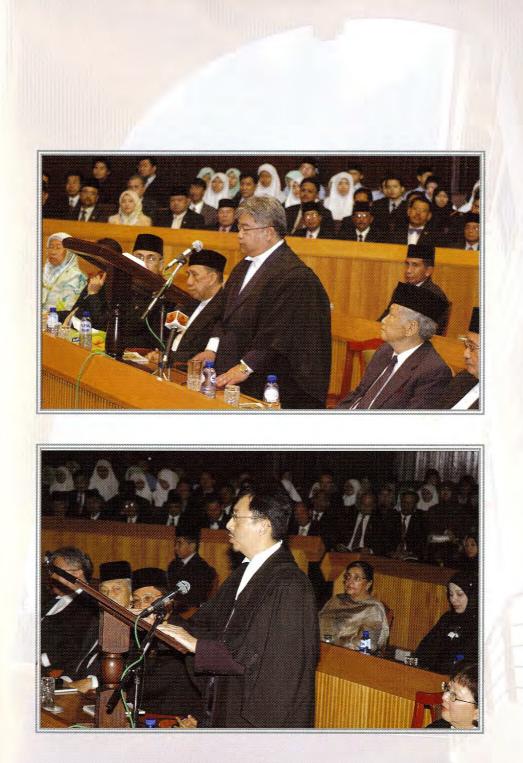
His Majesty The Sultan and Yang Di-Pertuan of Brunei Darussalam has graciously consented to hand over instrument of appointment to Justice Geoffrey Lance Davies.



His Majesty The Sultan and Yang Di-Pertuan of Brunei Darussalam has graciously consented to hand over instrument of appointment to Justice Gareth Lugar Mawson.

LEGAL YEAR 2007









JUDGES OF THE COURT OF APPEAL VISIT TO THE BRUNEI SUPREME COURT AND SYARIAH COURTS BUILDING 3 DECEMBER 2007/23 ZULKAEDAH 1428







ASIA PACIFIC JUDICIAL REFORM FORUM AT THE PALACE OF JUSTICE, PUTRA JAYA, MALAYSIA



Justice DP Hayati at the Asia Pacific Judicial Reform Forum held from 27 to 30 May 2007 at the Palace of Justice, Putra Jaya, Malaysia



Justice DP Hayati sharing some light moments with the Right Hon. Mr. Justice Tan Sri Datuk Seri Panglima Richard Malanjum, Chief Judge of the High Court of Sabah and Sarawak, the Hon. Datuk Zainun Ali, Judge of High Court of Appeal, Malaysia

MAGISTRATE'S COURT FUNCTIONS





COMMITTEE MEMBERS OF THE OPENING OF THE LEGAL YEAR 2008

1. Protocol Committee

Awang Razali bin Haji Badar (Jabatan Adat Istiadat Negara) Radin Safiee bin Radin Mas Basiuni Haji Badaruddin bin Haji Abdul Karim

2. **Invitation and Secretariat Committee** Hajah Mariah binti Awang Ali Suzanah binti Haji Busman

Pg. Hajah Rohaiyah binti Pg. Haji Md. Yassin Mohd. Yassin bin Haji Manggong @ Mohd. Moksin

3. Refreshment Committee

Pg. Masni binti Pg. Haji Bahar Harnita Zelda Skinner Rukiah binti Anusar @ Anuar Pg. Hajah Rohaiyah binti Pg. Haji Md. Yassin

4. Facilities Committee

5.

6.

Pg. Haji Mohd. Khairuddin bin Pg. Haji Hashim Haji Omar bin Haji Daud Haji Morshidi bin Haji Mokhtar Lim Ching Hanafi bin Haji Ibrahim Mohd. Noor bin Ismail State Judiciary Department Officers

Building Maintenance Committee

Haji Morshidi bin Haji Mokhtar Haji Omar bin Haji Daud Mohd. Noor bin Haji Ismail

Media & Photography Committee Mohd. Faisal bin PDJLDDSP Haji Kefli Suzanah binti Haji Sulaiman

Finance Committee

7.

Awang Tamin bin Haji Lamat Hajah Yalus binti Abdullah @ Dayang binti Erih

8. Programme Committee

Hairol Arni bin Haji Abd. Majid Haji Badaruddin bin Haji Abdul Karim Pengiran Sulaiman bin Pengiran Duraman Muhammad Zulfadhli bin Haji Abd. Hamid Mohd. Yassin bin Haji Manggong @ Mohd Moksin Awang Yahya bin Omar Dayangku Noorbaini binti Pengiran Haji Ahmad

9. Royal Police Force Guard of Honour Committee

Mohd. Faisal bin PDJLDDSP Haji Kefli ASP Haji Mohd. Fadzillah bin Haji Ismail Insp. Ak. Haji Mohammad Yusra bin Pg. Haji Mohammad

10. Reception Committee

Lim Siew Yen Pg. Rostaina binti Pg. Haji Duraman Pg. Hajah Hanani binti Pg. Haji Metusain Radin Safiee bin Radin Mas Basiuni Ramzidah binti PDKD Haji Abd. Rahman Lailatul Zubaidah binti Haji Mohammad Hussain Dk. Hajah Norismayanti binti Pg. Haji Ismail Hajah Hazarena binti POKSJDP Haji Abu Hurairah Harnita Zelda Skinner Maimun binti Haji Tajaah Noorhayati binti Haji Ismail Hajah Fauzihana binti Haji Mohammad Rozliani Haji A. Timbang Suhana binti Haji Md Jaini

11.

Thanks Giving Committee

Awang Soffriana bin Haji Masri

SEATING PLANS



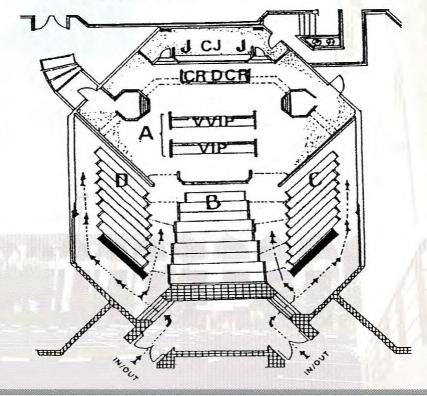
DI MAHKAMAH TINGGI

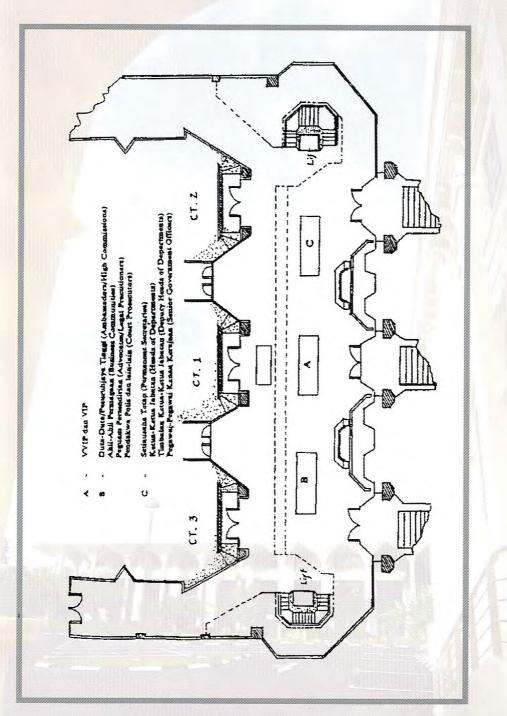
A - VVIP dan VIP

- B 1. Ketua Majistret/Majistret Kanan/Majistret dan Penda/tar-Penda/tar Mahkamah Tinggi
 - 2. Penolong-Penolong Peguamcara Negara/ Penasihat-Penasihat Undang-Undang/ Penolong-Penolong Pendakwaraya
 - 3. Ahli-Ahli Peguam Persendirian

C - 1. Setlausaha Tetap

- 2. Ketua-Ketua Jabatan
- 3. Timbalan Ketua-Ketua Jabatan
- 4. Pegawai-Pegawai Kanan Kerajaan
- D 1. Duta-Duta
 - 2. Pendakwa Polis dan lain-lain
 - 3. Ahli-Ahli Perniagaan
 - 4, Pegawai-Pegawai dan Kakitangan Jabatan Kehakiman





ACKNOWLEDGEMENT

ACKNOWLEDGEMENTS

PRIME MINISTER'S OFFICE **ROYAL BRUNEI POLICE FORCE** ADAT ISTIADAT NEGARA ATTORNEY GENERAL'S CHAMBERS GOVERNMENT PRINTING DEPARTMENT MINISTRY OF RELIGIOUS AFFAIRS MINISTRY OF FOREIGN AFFAIRS AND TRADE INFORMATION DEPARTMENT MUNICIPAL DEPARTMENT PUBLIC WORKS DEPARTMENT ELECTRICAL SERVICES DEPARTMENT **RADIO AND TELEVISION BRUNEI** FIRE AND RESCUE DEPARTMENT ORGANISING COMMITTEE FOR THE OPENING OF THE LEGAL **YEAR 2008**

AND OFFICERS AND STAFF OF THE JUDICIARY





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