

SPEECHES DURING THE OPENING OF THE LEGAL YEAR 2013

THE HONOURABLE CHIEF JUSTICE

Dato Seri Paduka Haji Kifrawi Bin Dato Paduka Haji Kifli

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
السَّلَامُ عَلَيْكُمْ وَرَحْمَةُ اللَّهِ وَابْرَكَاتِهِ

The Honourable Attorney General, The Honourable Chief Syari'e Judge, President of Brunei Darussalam's Law Society, Members of the Bar, Distinguished Guests, Ladies and Gentlemen. We are honoured also to have amongst us the presence of Ms Azimah Omar, Chief Registrar's, Federal Court of Malaysia, Mr Leo Cheng Suan, Vice-President of the Law Society of Singapore and MR Desmond Ho, Council Member of Malaysian Bar during today's Opening of our Legal Year, good morning and welcome.

Welcome to the Year of the Snake 2013. With Allah's Blessing, I hope this New Year 2013 will be a more happy, peaceful, prosperous and exciting New Year.

1. STATISTICS

Court of Appeal, High Court and Intermediate Court Statistics

28 criminal cases were registered in the High Court in 2012 as against **12** in 2011, and **97** civil cases were filed in the High Court in 2012 as against **127** in the previous years.

Civil appeals from the High Court and Intermediate Court to the Court of Appeal in 2012 numbered **12**, that being **8 LESS** than in 2011; and criminal appeals to the Court of Appeal in 2012 were **19** in number, this being **11 MORE** than in 2011.

There are **4** capital cases before the High Court in 2012 awaiting trial, **3** cases of drug cases and **1** murder case. Trial dates have been given for the 4 cases.

There were **53** criminal appeals to the High Court from the Magistrate's Court and **3** civil appeals to the High Court from the Magistrate's Court.

High Court and Intermediate Court civil cases (Chamber hearings) registered to be heard before the Senior Registrars and Registrar **INCREASED** by 7 from **387** in 2011 to **394** in 2012.

In 2012, the Registry of Civil Marriages registered **284** marriages, **36** divorces were also heard in the same year.

With regards to Bankruptcy matters, **661** Notices were received during 2012, that being **33 MORE** than in 2011; **661** Receiving Orders were made in 2012, that is **72 MORE** than in 2011; and **51** Adjudication Orders were made in 2012, that being **3 MORE** than the previous year.

The Intermediate Court had **197** civil matters registered in 2012, this being **7 MORE** than in 2011; and **28** criminal matters were registered in 2012, that being **10 LESS** than in 2011.

The Subordinate Court's Statistics

- **Criminal Cases**

In the Magistrate's Court for 2012 for criminal cases, **1989** cases were registered in Bandar Seri Begawan, 719 cases **LESS** than that in 2011, **296** cases were registered in Kuala Belait, 45 cases **LESS** than in 2011, **151** cases were registered in Tutong, 81 **LESS** than in 2011 and **4** cases were registered in Temburong, **9** cases **LESS** than in 2011.

- **Civil Cases**

The figures for civil cases registered in the Magistracies were as follows: in Bandar Seri Begawan, **1182** suits were registered in 2012 as against **1400** filed in 2011, in Kuala Belait, **236** suits were registered as against **287** filed in 2011, in Tutong, **207** suits were registered as against **284** filed in 2011 and in Temburong, no civil matters were registered.

- **Inquests**

Figures for Inquests heard in Bandar Seri Begawan were **27** in 2012 as against **23** in 2011, in Tutong Court, **4** were heard in 2012 as against **12** in 2011, **0** heard in Kuala Belait Court for both 2012 and 2011 and **0** in Temburong Court for both 2012 and 2011.

- **Applications made under the Lunacy Act**

Figures for applications made under the Lunacy Act in Bandar Seri Begawan Court were **79** in 2012 and **58** in 2011, in Kuala Belait Court, **10** in 2012 and **13** in 2011, **0** in Tutong Court for both 2012 and 2011 and **0** in Temburong Court for both 2012 and 2011.

- **Statutory Declarations**

The number of Statutory Declarations filed in Bandar Seri Begawan Court were **16,370** in 2012 as against **16,996** in 2011, in Kuala Belait Court, **2511** in 2012 as against **3497** in 2011, in Tutong Court **2033** were filed in 2012 as against **1156** in 2011 and in Temburong Court, **150** were filed in 2012 as against **218** in 2011.

- **Probate and Letters of Administration**

In Bandar Seri Begawan, **275** applications for Letters of Administration were registered in 2012, **205** Letters of Administration were granted. 7 applications for Probate were registered in 2012 and **31** Letter of Administration were granted. In Kuala Belait, **81** applications for Letters of Administration were registered in 2012 and **73** Letters of Administration were granted; **5** applications for Probate were registered, **5** Probate were granted. In Temburong, **7** applications for Letters of Administration were registered in 2012 and **6** Letters of Administration were granted.

- **Total Revenue**

Lastly, the **Total Revenue** collected during **2012** amounted to **B\$6,810,368.73** as compared to **B\$6,301,256.26** during **2011**.

2. JUVENILE COURT

Over the last 12 months, the Juvenile Court continued its efforts in administering effective and swift juvenile justice. The Juvenile Court, now in its 2nd year of operations has a steady caseload although a small caseload. The Juvenile Court has established itself as an important and much needed component of the Brunei judicial system in dealing with offenders and persons under the age of 18.

The statistics of the Juvenile Court are as follows. In 2012, **22** cases were registered in Bandar Seri Begawan, as against **20** registered in 2011, **4** cases were registered in Kuala Belait, as against **1** in 2011, **0** cases were registered in Temburong for both 2012 and 2011.

Of the **22** cases registered in 2012 in Bandar Seri Begawan Juvenile Court, **17** were Beyond Parental Control applications. Additionally, **5** Care and Protection Order Applications were registered in 2012. This figure also indicated an increase in number from previous years.

These cases tell us that all is not well with the family unit. And this is something we should all be concerned about. It is everybody's problem when the family in Brunei is at risk because

children of broken families may suffer throughout their lives cultivating displaced values and an unhealthy attitude of life that can influence generations to come. It is this calamity that we must avoid and it is every parent's responsibility to do the best they can for their children even in the most challenging circumstances.

The role played by the Juvenile Court Magistrate in dealing with a rebellious or troubled teen amidst a background of family dysfunction is therefore, a critical one. Stories of heartbreak and despair are heard in our juvenile courtrooms, revealing sometimes for the first time, a harsh reality to parents who have lost all connection to their children. It is the Juvenile Court Magistrate who assists and tries to mend what is broken. And as it to be expected in dealing with humans in turmoil, this is no easy task.

I take this opportunity therefore to stress the importance of training for judicial officers generally and the importance of specific training for specialist judges and magistrates such as the Juvenile Court Magistrates to deal with their cases. In the same vein, I would also stress that similar importance be placed on the training of officers of the Community Development Unit of Ministry of Culture Youth and Sports, in particular social workers and counselors who receive children and young persons in to their custody in order that the children and young persons receive the highest level of care and professional help within the system.

I also like to thank all the stakeholders of the juvenile justice system, the officers of the Community Development Unit, Ministry of Culture Youth and Sports, Officers of the Attorney General Chamber and Officers of the Royal Brunei Police Force for their cooperation and partnership in striving towards good governance in the Juvenile Court. Last but not least, I wish to record my appreciation to the Panel of Advisers who continue to provide their valuable services to the Juvenile Court Magistrates in dealing with children and young persons.

3. SMALL CLAIMS TRIBUNAL

The Small Claims Tribunal (SCT) has been successfully set up in the Subordinate Court, Bandar Seri Begawan.

The Small Claims Tribunal Order came into force on the 1st January 2012 and became operational on the 1st January 2013. The Tribunal will operate during normal government working hours.

The Small Claims Tribunal is designed to provide a fast, informal and inexpensive forum for laymen to resolve legal disputes without entering into the realm of court proceedings. More importantly, there are no legal representatives permitted in SCT proceedings.

The SCT has jurisdiction to hear cases arising from contracts of sale of goods, contracts for provision of services and claims arising from damages to property where the claim does not exceed \$10,000.

The cost for filing the claims in the Small Claims Tribunal is nominal. It depends on the amount the claimant is claiming. For consumer, if the amount claim does not exceed \$5,000.00, the fee is \$10.00. If the amount of claims exceeds \$5,000 but less than \$10,000 the filing fees is \$20.00. For non-consumer, if the amount claimed does not exceed \$5,000.00, the fee is \$50.00. If the amount claimed exceeds \$5,000 but less than \$10,000 the filing fees is \$100.00.

4. BANKRUPTCY REGISTRY

THE Bankruptcy Registry has continued to deal with the high volume of cases that are registered and processed. Creditors Meetings continue to increase tremendously as the Deputy Official Receivers are dealing with cases that are sometimes more than 15 years old. As the number of Bankruptcies increases yearly, those new cases are heard with the continuing older cases. This is evident from the statistics whereby in 2012, there were **2,433** hearings fixed. A jump from **1,717** hearing in 2011.

The Bankruptcy Registry initially shared its' Registry with the Probate Registry and the Translators. Due to the rising volume, the Registry was expanded with the Probate Registry and the Translators relocating to the first floor of the Supreme Court building. Minor renovations were completed and the Registry houses proper counters, a search room and increased work space for the staff of the Bankruptcy registry. The Assistant Official receiver is assisted by (1) assistant finance clerk, three (3) clerks and 1 office peon. They deal with massive paperwork, all of them tasked to do more than one specified task within the bankruptcy unit. There is an obvious need to increase the numbers of Deputy Official Receivers and overall staff.

The recent new amendments to the Bankruptcy Act came into effect on 4th December 2012. The most noticeable amendment being:

1. The minimum limit to file a bankruptcy notice has been increased from BND500.00 to BND10,000. However, the minimum for Debtor's petition remains at BND500.00.

2. Discretion to discharge bankrupts:

This allows for the trustee to issue a certificate discharging a bankrupt from bankruptcy. However, this is subject to certain criteria.

The trustee may be able to issue a certificate if:

- a. a period of 3 years has lapsed since the date of the commencement of the bankruptcy.
- b. the debts proved for do not exceed BND100,000.

Before the issuance of any certificate of discharge, the trustee must serve on every Creditor concerned in a matter. Objections by the Creditors, if any, must be furnished to the Trustee. The Creditors can apply to the Court for determination should their objections be rejected by the Trustee.

Should a discharge be issued, the discharge shall release the Debtor from his debts EXCEPT for (i) government debts and (ii) bail bonds.

The discharge does not affect:

- (i) Secured creditors;
- (ii) Any provable debt which the bankrupt incurred in respect of any fraud;
- (iii) Any fines imposed for an offence;
- (iv) Liability to pay for damages for negligence, nuisance or personal injury;
- (v) Any order arising under the Married Women Act and the Islamic Family Law Order;
- (vi) Any order arising under written law relating to the confiscation of the proceeds of crime.

3. There is also the power to impound passports of the Bankrupt should the need arise. This essentially ensures that the bankrupt does not leave Brunei Darussalam during the administration of the estate.

The Trustee may issue directions to the Controller of Immigration to detain the Bankrupt's passport, certificate of identity or other travel documents.

4. The new amendment provides further for specific duties, disqualifications and disabilities of a Bankrupt.

5. It also allows for the reciprocal recognition of the Official Assignees (Official Receivers) between Brunei Darussalam, Singapore and Malaysia. The effect would be, if a person is adjudged a bankrupt in Malaysia or Singapore, the property of the bankrupt, if situated in Brunei Darussalam would vest in the Official Assignees of Malaysia or Singapore.

5. REMINDER

I regret to say that I have repeat what I have said before. It is useful to remind ourselves what should be done every year so that we continue to give a proper service to the public.

- (a) All cases (including any appeal) have to be completed and disposed off within a reasonable time. Any delay may cause injustice to the parties.
- (b) All lawyers including judicial officers and their staff have to be continually trained and better equipped to enable them to handle cases efficiently.
- (c) All building/offices/working areas have to be properly equipped with proper facilities so as to produce a working environment which is conducive to efficient disposal of cases.

I am very concerned that we may take these basic requirements for granted. I am glad to say that in general we have tried our best to achieve these basic objectives despite the shortage of skilled human resources.

We are thankful to the Government of His Majesty The Sultan and Yang Di-Pertuan of Brunei Darussalam for the Budget made available to pay for the maintenance of the building facilities, training of officers and staff and recruitment of judicial officers.

We know that in other countries due to lack of financial resources, they face serious backlog of cases and thus serious delay in the disposal of court cases.

6. APPRECIATION AND GRATITUDE

I wish to record our appreciation and gratitude to our past and previous Chief Justice, President of the Court of Appeal, High Court Judges (Judicial Commissioner of the Supreme Court), Intermediate Court Judges, Chief Registrars, Chief Magistrates, Magistrates and Registrars and Judicial Staff for their contribution towards our Judiciary. They were responsible for laying the foundation of our Judiciary and paving the way for us to move on towards a more efficient and productive machinery of justice.

I also wish to highlight the contribution by our 'Visiting Judges' and Judges of the Court of Appeal Brunei Darussalam. Brunei Darussalam being a small country with a small population, these foreign Judges having considerable legal experience and expertise have been useful and will still remain important and valuable assets to our small judiciary.

I hope they will always inspire our local lawyers and in the near future our local lawyers to be as good, if not, better lawyers than these foreign Judges.

7. CONCLUSION

As usual I am grateful to the Chief Registrar and the officers and staff of the Judiciary for the preparations they have made for this ceremony.

My thanks also go to the Commissioner of Police and the Royal Brunei Police Force for the guard of honour which I was privileged to inspect this morning.

I am also grateful to the State Judiciary Department and the Prime Minister's Office for their continuous support and cooperation in making sure the courts are managed properly.

Finally, on behalf of the Judiciary, I must express my appreciation to all of you who have found time to attend this annual occasion. Thank you for supporting and showing interest in our judicial system which I believe has served Brunei Darussalam well and will continue to do so in the future.