

SPEECHES DURING THE OPENING OF THE LEGAL YEAR 2015

THE HONOURABLE ATTORNEY GENERAL

Datin Seri Paduka Hajah Hayati binti POKS Dato Seri Paduka Haji Mohd Salleh

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
السَّلَامُ عَلَيْكُمْ وَرَحْمَةُ اللَّهِ وَابْرَكَاتِهِ

A very good morning to all.

My Lord Honourable Chief Justice, Yang Amat Arif Chief Syar'ie Judge, Honourable Judges, President of the Brunei Darussalam, Law Society, Members of the Bar, Excellencies, Distinguished Guests, Ladies and Gentlemen.

My Lord,

I begin this morning with an excerpt of a Titah by His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam on the eve of our 31st National Day on 22 February 2015.

His Majesty emphasized on the theme “Generasi Berwawasan” or “Generation with Vision” and reminded the continuing and future generation of Brunei Darussalam to equip themselves to face future challenges is to protect and maintain peace and security, a blessing from Allah Subhanahu Wata’ala which has allowed us to live in peace, to plan and implement the country’s progress and development from which we can reap the benefits.

This special occasion brings us the administrators of justice and gatekeepers of public interest together again today to uphold the professionalism and integrity from our honourable profession. Together, may we uphold and maintain the trust placed on our judicial and legal system. Also present with us here, are the “generasi penerus” (continuing generation) who will further our work and our predecessors. May they turn out to be “Genarasi Berwawasan” (generation with vision), who will continue our journey without compromising our core values of “honesty and integrity, innovative, just and fair, professional and progressive”.

Congratulations/Acknowledgement

My Lord,

Chambers first wish to congratulate His Honour Muhammed Faisal bin PDJLD DSP Haji Kefli, on his appointment as Chief Magistrate.

I also wish to congratulate My Lord for the recent successful launch of an electronic management system known as Judiciary Case Management System (JCMS). The system I am told aims to establish and maintain an effective way to manage court documents as well as services for both the public and legal community. This system will no doubt allow cases to

be effectively managed and expeditiously heard. My officers both from the Criminal Justice Division and Civil Case Negotiations (CCN) to complement the JCMS objectives. We are also grateful to the Judiciary and the criminal lawyers for the support. We also welcome your Lordship's Practise Directions which will guide us and provide consistency.

In my legal year speech last year I mentioned that Chambers are in the final stage of having a customized file management application system design to facilitate internal work process and to enable user to conduct routine task more efficiently and effectively. Chambers has embarked its journey embracing the system simply known as AIMS (Attorney General's Chambers Information System) since September 2014. Adoption of new technology is not without its challenges or fault either in terms of infrastructure (network or system itself) or the users. Chambers is currently facing internal network issues as our new outdated infrastructure could not support sufficiently the connectivity of AIMS. However, with the support from the relevant agencies, I hope such network connection.

Although manual records are still widely used and kept by Chambers, with the introduction of AIMS, electronic records are gradually created, saved and retained. I believe that the use of AIMS will be greatly welcomed by my officers and staff. More significantly AIMS could be enhanced and upgraded in the future. I wish to put on record my appreciation to the Administrative and IT Unit for their patience in overcoming the challenges. Of course I recognise that IT is a very useful tool to assist us in our work but ultimately it's our people who will make the difference.

Activities in 2014 and Continuing Quest to Improve

In 2014, Chambers continued to dispense our responsibilities as legal advisers to the Government and to embark in more initiatives to improve our delivery. One, which we found to be very fruitful, is to develop closer working relationship with our clients. We are grateful to the relevant Ministries and Departments for their co-operation and understanding towards our mutual efforts to do better.

1) Legislative Drafting Division (LDD)

The Legislative Drafting Division continued to be involved in drafting diverse areas of the law, amongst others, the competition law, company law, mental health law as well as those relating to education. It has always been a challenging task to the officers in this Division to come up with draft laws which meets the clients' expectations. Therefore Chambers has always informed out clients that clear policy direction as well reasonable time be allocated for Chambers to produce legislation that is clear and concise.

Despite only having 11 drafters including the Legal Draftsman, Puan Alice Khan, a total of 55 numbers of principal and subsidiary legislation had been published in the Gazette for the year 2014. The Legislation Drafting Division had also been involved in the preparation of legislation relating to Ease of Doing Business such as the Miscellaneous Licences (Amendment) Order 2014, the Companies Act (Amendment) Order 2014, the Companies Act (Amendment No.2) Order 2014 and Companies Act (Amendment) 2015.

In the regard I would encourage the relevant agencies to be well versed with their laws and be proactive in reviewing their laws to keep them abreast with the changing world as well as to make our environment conducive for business and investment to flourish.

Another duty of Chambers is to continuously revise the Laws of Brunei. From January 2014 until January 2015 a total of 20 numbers of Acts and 23 numbers of subsidiary legislation have been revised by the Law Revision Unit. For 2015 this Unit is embarking on three major revision exercises to revise the Companies Act, the Criminal Procedure Code and the Penal Code.

2) Civil Division

Civil Division continued to receive increasing numbers of referrals in terms of advising/vetting drafting contracts for Government projects. Memorandum of Understandings as well as Government debt recovery. The matters referred to also include complex and new areas of law such as maritime law as well as public private partnership.

The Civil Division held another Muzakarah session as part of the continuation of the previous Muzakarah session of Outreach Programme for Government agencies in Brunei Darussalam. The Muzakarah was held with the co-operation of the State Tender Board, Ministry of Finance and E-Government National Centre (EGNC). The Muzakarah session was attended by officers from the Ministry of Education as well as department under it. Alhamdulillah the Muzakarah had given the participants a better understanding of the process of contract preparation as well as the procedure which has enable Chambers to deliver more timely advice. I have requested all Divisions to continue to organize such Muzakarah as an open forum where issues and problem can be discussed and solved mutually.

3) International Affairs Division (IAD)

In line with its mission, the International Affairs Division continues to deal with various workloads on international matters for 2014. The service provided by IAD officers ranges from providing legal opinions on international law issues, including drafting, vetting and interpretation of treaties, and our legal international obligations assisting in negotiations as well as attending international meetings and conferences.

These include:-

- i) Exchange Notes on visa exception
- ii) Exchange of Letters
- iii) as part of the Brunei Darussalam delegation to the Second Cycle of Universal Periodic Review for Brunei Darussalam before the Human Rights Council in May 2014

- iv) as part of Brunei Darussalam delegation when she reviewed by CEDAW Committee in its second and third national report in 2014
- v) involvement in several Free Trade Agreements such as Trans-Pacific Partnership (TPP) Agreement, Regional Comprehensive Economic Partnership (RCEP) agreement and ASEAN Hong Kong FTA

Chambers is honoured with the continued request for officers from IAD to be part of Brunei Darussalam delegation bilateral, regional and international Meetings which demonstrate the recognition of the important role of Chambers in the delivery of advice and assistance on international matters, from the legal perspective.

1) Research and Law Review Division (RLRD)

As part of its scope of work Research and Law Review Division organized a workshop on “Understanding the Law Reform Process” in 2014. The workshop was facilitated by Mr Michael Sayers a world renowned law reform consultant and aimed at enhancing understanding of the law reform process. The Workshop highlighted the importance of law reform process especially when changes are taking place across the world. This requires laws to be kept up-to-date, modern, simple, relevant and as cost effective as possible.

At this juncture, I also wish to express my appreciation to the officers in the Research and Law Review Division for their unwavering commitment in delivering briefings on the Syariah Panel Code Order in 2014 throughout the country. I have received appreciation for them from the relevant agencies and the public and I thank them for their valuable contribution.

2) Criminal Justice Division (CJD)

Apart from doing their daily court appearance the officers under the Criminal Justice Division had a very busy year in 2014 with quite a number of requests for briefings/lectures on legislation relating to crimes such as:

- i) trafficking in persons
- ii) criminal justice system
- iii) domestic violence and child abuse
- iv) assets recovery
- v) maritime law

in various Titah’s last year, His Majesty had expressed concern on “ancaman siber” (cyber threats) in particular for children and the rise of possible seditious and subversive postings online. In fact, as part of AGC’s awareness program, Criminal Justice Division officers had gone to 20 secondary schools and educational institutions and reached out to 5500 students.

The program that began in September 2013 will also now be delivered to primary schools in the country. The requests by schools and institutions have increased significantly in recent times and our officers are doing their best to cope with the demand whilst also having to prioritize their core work of doing prosecution. This is a project which close to my heart and I wish to record my deep appreciation to the officers for their enthusiasm despite having to cope with their own workload.

Criminals who hide their money and assets overseas are not untouchable. The successful enforcement of the Benefit Recovery Order is a testament to the strong and robust international cooperation framework that Brunei Darussalam possesses through laws such as the Mutual Assistance in Criminal Matters Order and the Criminal Asst Recover Order as well as the strong and longstanding working relationship between the Attorney General's Chambers of Brunei Darussalam and its counterparts. By November 2014 Chambers had assisted the Anti-Corruption Bureau to recover BND 600,000.00 in foreign assets belonging to an offender which is to be paid into the Criminal Asset Confiscation Fund, managed by the Permanent Secretary to the Ministry of Finance.

Changes in the Law

In 2014 His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam has consented to amendments to the Penal Code, Chapter 22.

The amendments, which took effect in October 2014 is ACG's initiative in response to not just the Monarch's 30th National Day Titah that called on enforcement authorities to address "deplorable acts" related to the law but is also intended to address the string to crimes that affect mosques and other places of worship.

I am also pleased to mention the recent amendment to Legal Profession (Alternative Qualifications) Rules 2014. The amendment is in relation to the recognition of the degree in law conferred by the University Islam Sultan Sharif Ali as an alternative qualification to enable students from that University to be admitted to the Brunei bar and to practice as an advocates and solicitors in Brunei.

Initiatives/Work plan

As an effort to assist newly recruited officers and the high number of attachment students requesting for such placement at the Criminal Justice Division, the officers in the Division had jointly contributed to the recent publication of an in-house work manual. I highly commend the initiative by the Division.

Chambers is currently working on a Knowledge Management Project named IRIS (Integrated Research Information System) whereby written court judgments and ruling in criminal cases in Brunei Darussalam are diligently compiled in a searchable database to facilitate easier and faster case law research by officers.

Another laudable initiative by the CJD which is intended to enhance transparency, accountability and efficiency is the recent online monthly publication of the list of Investigation Papers which Chambers had received from the enforcement agencies. This served to keep track of the cases submitted to Chambers so that agencies and parties can check if their cases have been referred to chambers. This is available on Chambers website at www.agc.gov.bn.

Training

In an effort to enhance knowledge in legal translation in line with the increasing demand of the stakeholders and specifically to make the laws of Brunei Darussalam in the Malay language readily available, Chambers held a Malay Language Workshop in November 2014 for translators. The task of translating legal text into the Malay language involves a heavy responsibility and required specialised discipline from general translation. This field is time-consuming, requires meticulous attention and patience, and at least a basic understanding of the law to be translated.

Law drafters are getting training to improve their role in interpreting and transforming Government policies into effective legislation. A 3 days' legislative drafting course was held in November 2014. The drafting course were attended by officers from the Legislative Drafting Division as well as from Islamic Legal Unit, Ministry of Religious Affairs, Authority Monetary Brunei, Authority for Info-communications Technology and Industry and University of Brunei Darussalam. Officers from Attorney Generals Chambers of Malaysia and Singapore also attended the course.

Chambers is honoured that two Senior Counsels, Dayang Hajah Noor Shukhairiyani and Dayang Hajah Anifa Rafiza were selected recently to participate in the United States Department of State's International Visitor Leadership Programme (IVLP) on the "US Judicial System". The programme is an excellent opportunity for them to examine the legal environment in the United States and learn about the challenges and trends that affect the legal system around the world. We thank the US Embassy for facilitating their participation.

My Lord,

Be rest assured that Chambers will continue with its quest on improving the quality and delivery of our advisory role and prosecution. There has been success but we do acknowledge there are also short comings. But more importantly we acknowledge that there is more to be done in order for us to strive to do better. In this regard Chambers is grateful to His Majesty's Government and the continued support and encouragement from the Prime Minister's Office for giving a generous capacity building budget for the last few years in our aim to achieve excellence in our knowledge and skills. The Human Resource Committee will focus on training strategically so that the budget is properly utilized and deserving officers and staff benefit from such trainings. As part of its capacity building Chambers will also do its best to invite trainers in certain areas of law to train our officers in house.

I am also proud to say that Chambers also organized the Criminal Asset Recovery Order Workshops for Royal Brunei Police Force Commercial Crime Investigation Division to provide police officers with a basic understanding for the provisions of Criminal Asset Recovery legislation with the view of further enhance their capabilities when conducting investigations into financial crimes and pursuing asset recovery as a tool of crime deterrence. This challenging area of the law has garnered global concerns and calls for international co-operation and I would encourage all relevant agencies who will inevitably be confronted with the task under the Order to send their relevant officers for suitable training and attachments.

Chambers hope to organise an Advocacy Training course in the last week of April 2015 as a follow up to our Annual Basic Prosecution Training Course to further guide our prosecutors on ways to improve their advocacy skills when conducting trials in courts. These two courses is one of the 'value added' benefit from the officers who were given the opportunity to train overseas.

In striving to deliver quality legal advice in terms of providing drafting and advisory services involving construction contract, Chambers will be holding a 2-days Workshop on construction contract and contract management in May 2015. The objective of the Workshop is to assist Chambers in understanding construction agreement and structures, the various forms of construction contracts and content, and the issues related to it.

Recruitment, Retention and Training of Legal Officers

Last year saw the largest number of officers leaving Chambers and this has undeniably seriously affected the timely delivery of legal services to our clients which continue to increase in numbers and complexity. I am grateful to the officers who relentlessly continue their best to cope with the demands despite the shortage of manpower. The Human Resource Committee assisted by the Administration and Finance section has introduced a new plan of action to reduce the attrition rate by implementation of, the AGC Talent Management System and engaging more vigorously with the Public Service Department regarding the proposed new scheme of service for legal officers which we are still awaiting. I am most grateful to the PMO and relevant Departments for assisting us with our interim exercise. I take this opportunity to seek the kind assistance and understanding of the Prime Minister's Office to expedite the proposed scheme. I would equate chambers as the largest 'legal firm' in that it provide legal advise and conduct prosecutions and more importantly assist Ministries in negotiations concerning Brunei Darussalam. There is therefore an urgent need to appropriately reward the deserving experienced, long serving, talented and potential officers with good attitude and good work ethics to remain in the AGC and within Government service. On our part, we pledge to improve the performance of our officers, we wil continue to identify priority areas of legal expertise and plan for the required training programme. We will also develop a Competency Framework for Legal Officers which will be used for capacity development & planning and introduce proper individual KPI assessed every 6 months instead of yearly.

Career in AGC

To encourage students to consider Chambers for their career, we have provided at the request of higher education institutions, career talks for those students aspiring to do a law degree. In 2014-2015 Chambers delivered such talks to five higher educational institutions. The outreach had even gone beyond Brunei Darussalam with myself together with three officers reaching out to students currently undertaking the study of law in the United Kingdom in February 2015. We had a fruitful interaction with the Brunei students there. Chambers wish to record our appreciation to the Ministry of Education as well as UNISSA for an exhibition of our Chambers. The interest shown by the students and parents in pursuing law as their career is most encouraging and welcome by Chambers as Chambers continue to face the challenging task of recruiting and retaining qualified lawyers. The future of the legal profession lies in these future generation of lawyers. [May I hasten to share with you the good news that you will see more ladies coming to Chambers.]

The main concern raised during my meeting with the law students in London was the difficulty of obtaining a place to do the Bar professional training course. Chambers is also continuously encouraging our existing legal officers who had loyally served Chambers to obtain their professional qualification. Chambers is therefore looking at other options available with the assistance of the Ministry of Education and other relevant institutions to assist these students and legal officers.

Chambers continued to receive numerous requests from students who are doing their degree in law as well as aspiring to do law to be attached with us. I am happy to mention that some of them did actually returned and joined Chambers as one of our new generation of lawyers.

While I am still on this point, we are grateful to the Government of His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam for allowing our officers to pursue their Masters as part of our continuing legal education in line with Brunei Darussalam's vision "Wawasan 2025". However, I note that some deserving officers are unable to do so in view of the age limit. Since the retirement age has been extended to 60, I would venture to suggest that consideration can be given to review the age limit. [I assure you that this suggestion is not meant to allow myself to do so, as you all may already appreciation the fact that my age would not qualify at any rate.]

What's in the Future

Chambers will continue to strengthen co-operation with Ministries and Departments in our collaborative effort to improve. We endeavour to continue to engage with our clients and publish guidelines and manual for guidance of our officers and clients in order to give competent and an effective legal advice. Still in the pipeline, we are looking at many other initiatives that we hope to embark. We will continue to develop the expertise within all Divisions.

Chambers will continue to accommodate any request for attachments as part of networking and sharing of information and knowledge towards team work and enhancing continued cooperation amongst us.

I welcome the establishment of Brunei Darussalam Arbitration Centre as announced by the Prime Minister's Office at the end of last year. The establishment of the Centre is to provide arbitration facilities and administrative services and mediation to meet the needs of domestic and international consumers. I am also pleased to know that the Judiciary had also held trainings on mediation recently. I echoed My Lord's views that mediation culture should be cultivated and litigation should be the last resort. With these latest developments I hope Brunei Darussalam would have other options or avenues for alternative dispute resolution which are practical economical. It would also promote the adoption of arbitration and mediation services in resolving commercial issues and disputes as a speedier alternative to civil proceeding in court.

I express my gratitude to all Chambers' officers and staff for their continuous support and perseverance. I also extend my gratitude to the HRC committee, the Religious Activities Committee, the Social and Sports Committee. In fact, we just completed our Interhouse Sports. I am most happy to see the closed bonding between officers and staff despite their competitive spirit. I can announce that the winner is the Red Dragons led by Awang Haji Mohd Yusree. Well done to them. I also extend Chambers' gratitude to My Lord and the Judiciary, the Law Society and all enforcement agencies. Ministries for the support and co-operation and do our part to guide and prepare the future generation to be 'Generasi Berwawasan' (Generation with Vision) for the good of Brunei Darussalam as hoped for by His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam.

Finally, I and all in Chambers, wish my Lord, members of the legal fraternity and all present a happy, healthy and successful 2015.

Wabillahit Taufik Walhidayah, Assalamualaikum Warahmatullahi Wabarakatuh.

Thank you.