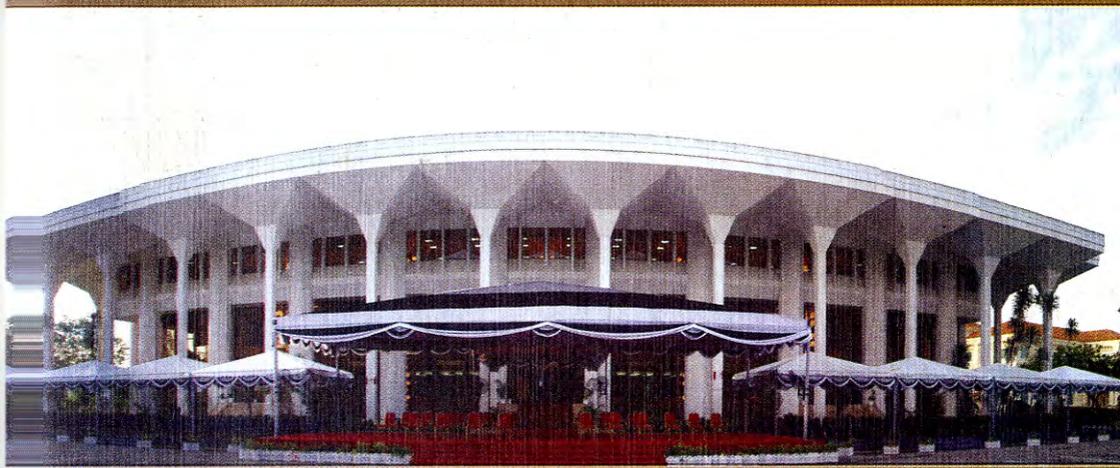
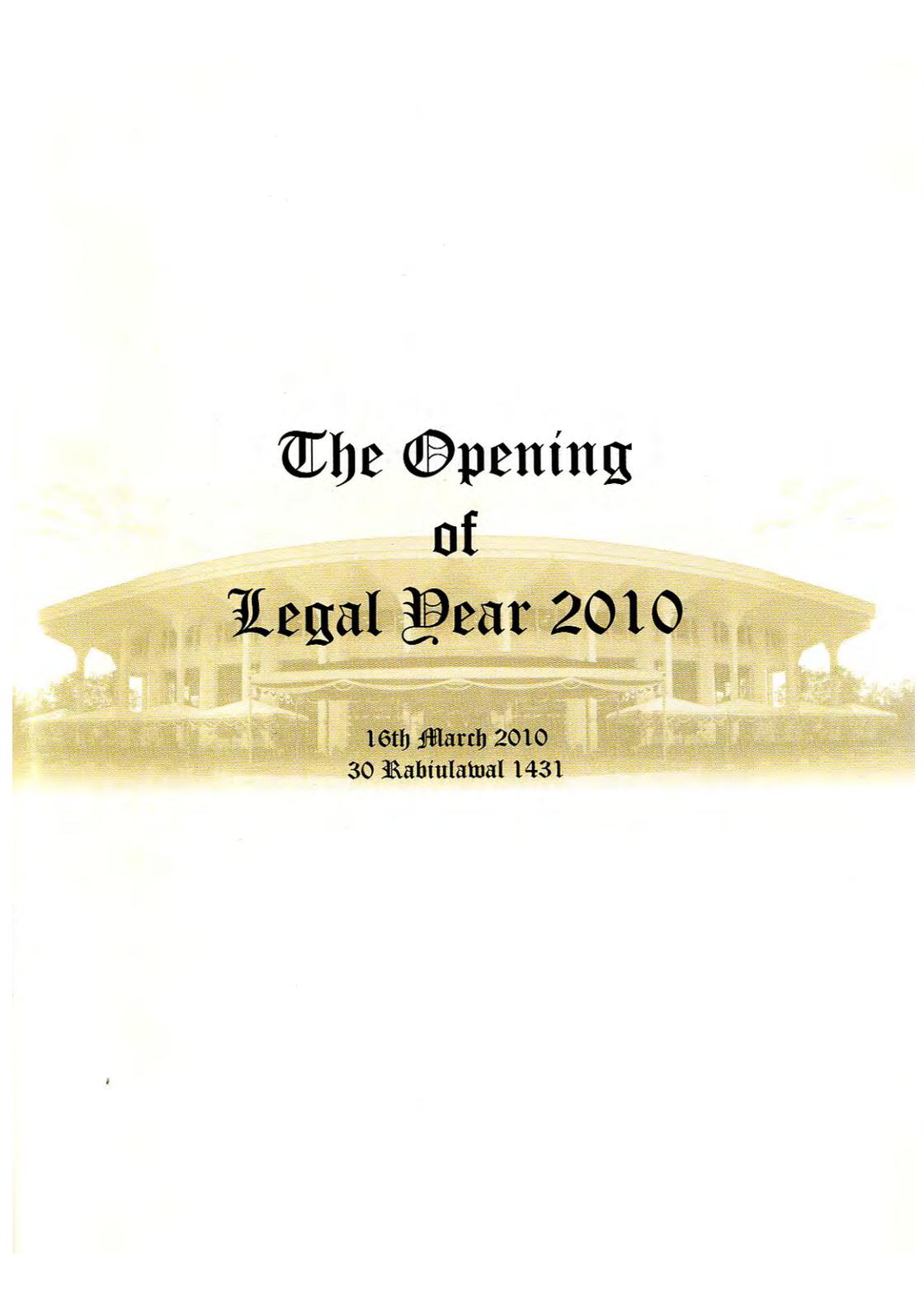




THE OPENING OF
LEGAL
YEAR 2010



16th March 2010
30 Rabiulatawal 1431

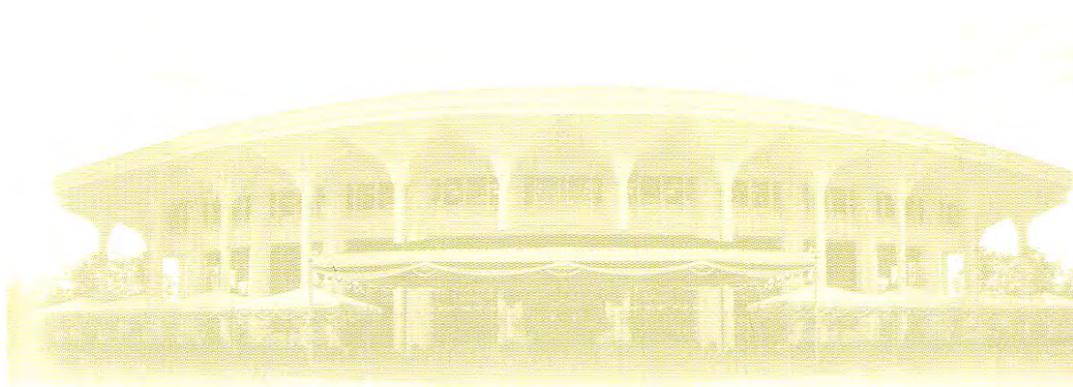


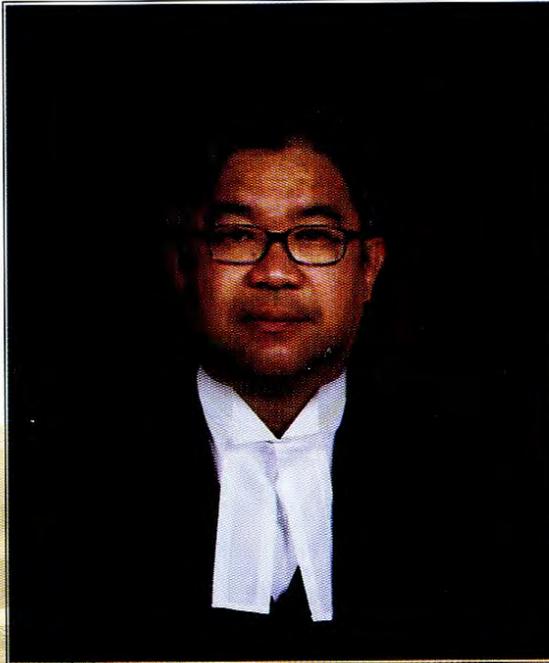
**The Opening
of
Legal Year 2010**

16th March 2010
30 Rabiulawal 1431

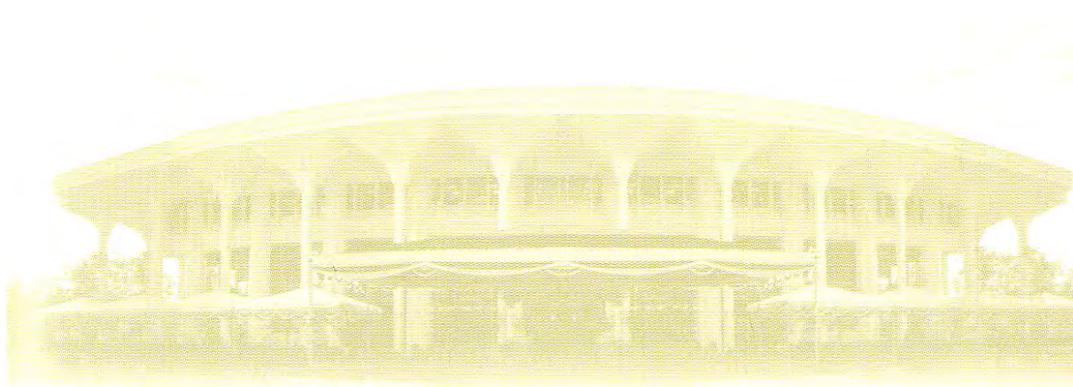


HIS MAJESTY PADUKA SERI BAGINDA SULTAN HAJI HASSANAL BOLKIAH
MU'IZZADDIN WADDAULAH IBNI AL-MARHUM SULTAN HAJI OMAR 'ALI
SAIFUDDIEN SA'ADUL KHAIRI WADDIEN
SULTAN AND YANG DI-PERTUAN OF BRUNEI DARUSSALAM





THE HONOURABLE
DATO SERI PADUKA HAJI KIFRAWI BIN DATO PADUKA HAJI KIFLI
THE CHIEF JUSTICE OF BRUNEI DARUSSALAM



FOREWORD

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

It is a great honour and privilege to welcome you to the ceremony marking the Opening of the Legal Year 2010.

This occasion is also an opportunity to reflect on the past year and to renew our commitment to continuously strive to improve the quality of the delivery of services in every aspect of the court system.

Eight months ago, a milestone in Brunei Judicial history was established with the appointment of our first local Chief Justice, Dato Seri Paduka Haji Kifrawi bin Dato Paduka Haji Kifli. We look forward to his leadership and guidance.

We wish to thank our former Chief Justice, Dato Seri Paduka Mohammed Saied for the contributions he had made to the Judiciary. We are grateful for his leadership and commitment during his time with us.

We congratulate the appointment of Dafin Paduka Hajah Hayati binti POKSDSP Haji Mohammad Salleh as the new Attorney General. We are thankful for her commitment and dedication during her tenure with the Judiciary.

Finally, with our deepest feeling of sorrow we acknowledge the passing of our esteemed President of the Court of Appeal, the late Honourable Justice Sir Noel Plunkett Power on the 19th day of November 2009. He will be greatly missed. He will be remembered for his astute leadership and invaluable contribution to the Judiciary.

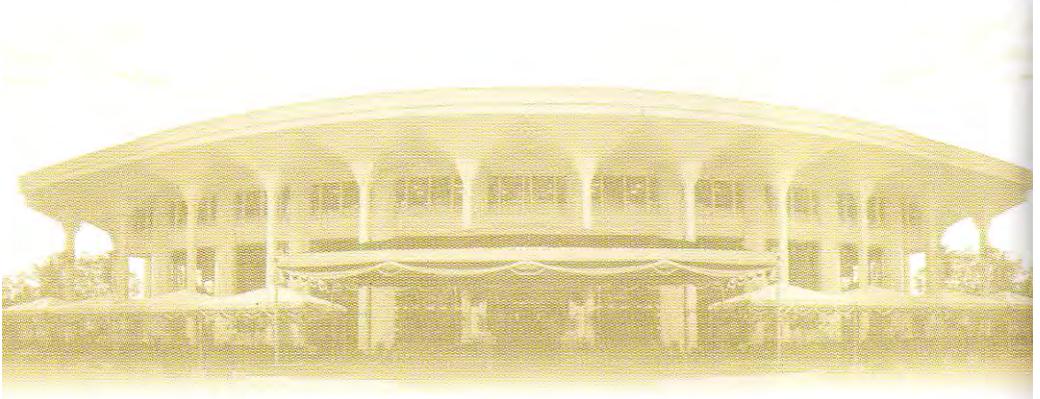
My appreciation goes to the officers and staff of the Judiciary for their continuing support and dedication. The success of this year Legal Year is a tribute to the tireless effort of our Judicial Officers and staff.



I also express my sincere appreciation and gratitude to the members of the organizing committee and various Government Department in ensuring that all the arrangements today will run smoothly.

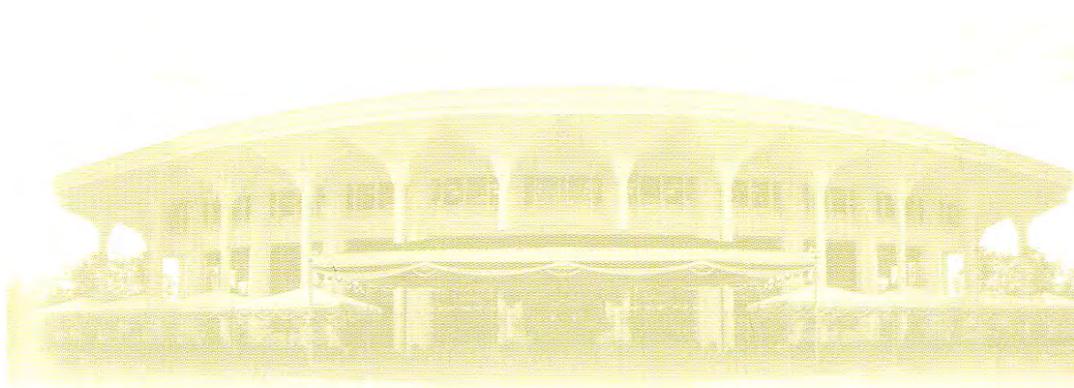
On behalf of the Judiciary, I thank you all for your presence today and wish you all the best in the endeavors that await you in 2010.

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



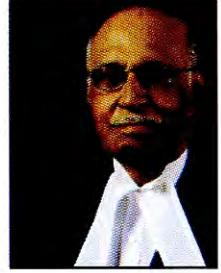
SPEECHES

DURING THE OPENING OF
THE LEGAL YEAR 2009



OPENING OF LEGAL YEAR 2009
Tuesday, 7th April 2009

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
السَّلَامُ عَلَيْكُمْ وَرَحْمَةُ اللَّهِ وَبَرَكَاتُهُ



Mr. Attorney, Mr. Zainidi, Honourable Guests, Ladies and Gentlemen, good morning and welcome.

It's been a few months now that we said goodbye to the last year and welcomed the New Year, 2009. We hope that it bodes well for all of us.

But first as usual the figures of the various type of cases for 2008, starting with the Magistrates' Courts, and criminal cases first. The Court in Bandar Seri Begawan had 3412 cases, that being 48 more than 2007; for Kuala Belait the figure was 366, that is, 45 more than the previous year; Tutong Court had 79 registered in 2008, that being 65 less than in 2007; and Temburong Court had 47 criminal cases registered compared with 12 in 2007.

The figures for civil cases registered in the Magistracies were: in Bandar Seri Begawan 1533 suits were registered in 2008 as against 1979 filed in the previous year; Kuala Belait Court had 273 registered in 2008, that being 178 more than the previous year; Tutong Court had 239 registered in 2008, that is 228 more than in 2007, and in Temburong Court no civil matter was registered as in the previous three years.

The Intermediate Court had 107 civil matters registered in 2008, this being 28 less than 2007; and 14 criminal matters were registered in the past year, that being 7 less than the previous year.

There were 8 civil appeals from the Magistrates' Courts to the High Court in 2008, the same as in 2007; and 37 criminal appeals were filed in 2008, this being 6 more than in 2007.

Coming now to the criminal cases heard in the High Court, the Court dealt with 21 cases as against 11 in 2007, and 192 civil cases were filed in the High Court in 2008 as against 161 in the previous year.

Civil appeals from the High Court and Intermediate Court to the Court of Appeal in 2008 numbered 29, that being 9 more than in 2007; and criminal appeals to the Court of Appeal in 2008 were 12 in number, this being 5 less than the previous year.

Chamber hearings before the Senior Registrars and Registrars dropped to 297 from 454 in 2007.

There are 2 capital cases before the High Court awaiting trial of which one is of drug trafficking, and the other one murder. Trial dates have been given for both cases.

Lastly, the total revenue collected during 2008 amounted to B\$5,719,879.65 as compared to B\$7,425,571.41 during 2007. I should think that not many people are aware of the fact that we shall also be celebrating the Silver Jubilee of the opening of the Supreme Court Building this year.

May I now take you back in history some 25 years to the opening of this courthouse by His Majesty when he said,

"Indeed it is my hope that in future all the officers and staff of the Judiciary will all comprise of my own subjects as what the position of the Legal Department at the moment. But the most important is to maintain the position of a just and equitable judiciary. So in that respect I urge my subjects especially those who are still in schools and institutions of higher learning to choose the subjects of law so that in future they can play an important role in the management of judicial and advocacy may it be in the Government or private sectors."

Since then the staff of the Judiciary is now comprised mainly of local persons. All Magistrates and Registrars of the Supreme Court are Bruneians, as is the one Intermediate Court Judge. There are three local Judges of the High Court. The Chief Justice is this humble person who is now addressing you.

In other larger jurisdictions, there usually is a bigger fraternity of practicing lawyers contrasted with much smaller jurisdictions where the number of practicing lawyers is comparably that much smaller.

Brunei Darussalam is one of such smaller jurisdictions where manpower resources are limited in certain fields, one of which is the Judiciary.

Appeals from the High Court in both criminal and civil matters go to the Court of Appeal, which presently is constituted by three retired judges from England and Australia to make up the full Bench at the sittings of the Court of Appeal twice a year.

A watchdog of some sort is necessary in an institution such as the Law Society which exists here in Brunei Darussalam to keep constant eye on the legal practitioners and keep them under tight rein. That ought to be, as far as I am concerned, one of the foremost concerns of the Law Society. This will ensure that members of the public seeking legal representation will be satisfied that they will be properly represented in the court of law.

I am glad to learn that the Law Society has heeded my advice to hold Seminars for the benefit of the profession. This exercise should continue regularly.

Occasionally we see an article in a newspaper or a magazine or internet media which is critical of judicial officers. The question would then arise whether the article is a contempt of court. This was considered in *Regina v. Commissioner of Police of the Metropolis, Ex parte Blackburn* (No.2) [1968] 2 Q.B.150. Lord Denning M.R. said at p.154:

“But is the article a contempt of court? This is the first case so far as I know where the Court has been called on to consider an allegation of contempt against itself. It is a jurisdiction which undoubtedly belongs to us but which we will most sparingly exercise: more particularly, as we ourselves have an interest in the matter.

Let me say at once that we will never use this jurisdiction as a means to uphold our own dignity. That must rest on surer foundations. Nor will we use it to suppress those who speak against us. We do not fear criticism, nor do we resent it. For there is something far more important at stake. It is no less than freedom of speech itself.

It is the right of every man, in Parliament or out of it, in the Press or over the broadcast, to make fair comment, even outspoken comment, on matters of public interest. Those who comment can deal faithfully with all that is done in a court of justice. They can say that we are mistaken, and our decisions erroneous, whether they are subject to appeal or not. All we would ask is that those who criticize us will remember that, from the nature of our office, we cannot reply to their criticisms.

We cannot enter into public controversy. Still less into political controversy. We must rely on our conduct itself to be its own vindication.

Exposed as we are to the winds of criticism, nothing which is said by this person or that, nothing that is written by pen or that, will deter us from doing what we believe is right; nor, I would add, from saying what the occasion requires, provided that it is pertinent to the matter in hand. Silence is not an option when things are ill done."

Lord Salmon made this comment:

"It is the inalienable right of everyone to comment fairly upon any matter of public importance. This right is one of the pillars of individual liberty – freedom of speech, which our courts have always unflinching upheld."

And Edmund Davies L.J. said:

"The right to fair criticism is part of the birthright of all subjects of His Majesty."

I shall end with another quotation from *What next in the Law* by Lord Denning at page 268 under the heading "4. Leave it to the judges":

"I know that there are difficulties in leaving it to the courts. It depends on whether the facts give rise to a point for discussion. It depends on whether the client or the lawyer will take it up. It depends on whether the judges have the wisdom or the courage to develop the law: or whether they will simply say: 'It is not for us. It is for Parliament.'

But my answer is this: Even if you do get Parliament to pass a statute, you will still have many of the same problems. I hope that the judges of the future will do as the judges used to do in times past: they should develop the law according to the needs of the times. They should be among the bold spirits. They should not be timorous souls feebly saying: 'It is for Parliament, not for us': see *Candler v. Crane, Christmas & Co.*, [1951] 2 KB164.

We should heed that advice and be not afraid of being the bold spirits."

Habits of people change over a period of time, so also their views. The law is not static and has to keep pace with the changing circumstances. This, to me seems an absolute, for if the law lags behind times that would quite obviously spell serious trouble for the citizens.

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 should not forget the Prisons Department for their assistance in holding the prisoners awaiting plea and trial, in safe custody.

Finally, on behalf of the Judiciary I must express my appreciation to all of you who have found time to attend this annual occasion. I think it signifies that there remains a deep interest in our judicial system which I believe has served Brunei Darussalam well and will continue to do so in the future.



Chief Justice
DATO SERI PADUKA MOHAMMED SAIED

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

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
السَّلَامُ عَلَيْكُمْ وَرَحْمَةُ اللَّهِ وَبَرَكَاتُهُ

My Lord Chief Justice and Judges of the Supreme Court, President of Brunei Darussalam's Law Society, Members of the Bar, Distinguished Guests, Ladies and Gentlemen



As usual, we are thankful to Allah Subhanahu Wata'ala for His blessings in making it possible for us to renew our usual pledges. We pledge to cooperate and support the upholding of the independence of the judiciary and the rule of law.

1. LAW REVISION AND REFORM

On the topic of legislation, the continuous revision and updating of the Laws of Brunei is the usual project done by the Attorney General's Chambers. This could explain why the Law Reform Committee mentioned in a recent meeting of the Legislative Council is no longer active. Since the last legal year of 18th March 2008, a further 10 legislation has been revised.

They are the Debtors Act (Chapter 195); the Electronic Transactions Act (Chapter 196); the Anti-Terrorism (Financial and Other Measures) Act (Chapter 197); the Tokyo Convention Act (Chapter 198); the Distress Act (Chapter 199); the Sungai Liang Authority Act (Chapter 200) and the Asian Development Bank Act (Chapter 201); the Yayasan Sultan Haji Hassanal Bolkiah Act (Chapter 166); the Internal Security Regulations (Regulation 1 of Chapter 133) and the Legislative Council and Council of Ministers (Remuneration of Members) Act (Chapter 134).

(a) ATTORNEY GENERAL'S CHAMBERS' WEBSITE

This year, the Chambers have started to make available the Laws of Brunei Darussalam on our website so as to enable the public to have easy access to our laws. Currently, most of the texts of the principal legislation comprising of Orders and 'Acts', are now available online and can be downloaded. The website also includes other useful information for example the list of amendments of the laws, subsidiary legislation and the numeral list of Government Gazettes publication in Part II for 2006 up to 2008. I would like to invite those who are present today to check out this website (www.agc.gov.bn). Any comments for possible improvements are most welcomed.

I am also happy to announce that the latest edition (2009) of the books on the Constitution of Brunei Darussalam are available for sale and can be obtained from my Chambers.

(b) NEW LEGISLATION

As a tradition, I take this opportunity to mention several new legislation that have been passed or approved by His Majesty the Sultan and Yang Di-Pertuan since the last legal year.

(i) The CRIMINALS REGISTRATION ORDER, 2008 which replaces the Fingerprints Enactment, 1956 provides for the creation of a DNA database in addition to the existing register of convicted persons and persons ordered to be banished, expelled or deported from Brunei Darussalam. An authorised officer can take finger impressions and photographs or record any other particulars of any person under arrest or has been convicted of an offence. This Order further provides that a body sample may be taken from a person who has been arrested, convicted of an offence or is serving a term of imprisonment.

(ii) The CUSTOMS (AMENDMENT) ORDER, 2008 increases the penalty for offences relating to the smuggling of certain prohibited items namely oil (comprising of gasoline, diesoline and kerosene) and rice, paddy and any of its products. For a first offence, the penalty is a fine of not less than \$10,000 and not exceeding \$500,000, imprisonment for a term not exceeding 3 years or both; and for a second or subsequent offence, a fine of not less than \$20,000 and not exceeding \$500,000, imprisonment for a term not less than 6 months and not exceeding 5 years or both.

(iii) The new ISLAMIC BANKING ORDER, 2008 which replaces the Islamic Banking Act of Chapter 168, is intended to strengthen the regulatory system towards the operation of Islamic banking business. This Order which is vastly improved from the repealed Islamic Banking Act, is designed to bring Islamic Banking in Brunei in line with conventional banking under the Banking Order 2006. Among the requirements for Islamic Banks in this Order are minimum capital funds, reserve funds, liquid assets, cash balances and assets which Islamic Banks must set up, hold or maintain. Additionally, the aims and operations of Islamic Banks must not be contrary to syariah law. This will provide greater security for customers and depositors of Islamic Banks and a more robust Islamic Banking system which is now on par with their conventional counterparts.

(iv) Another new law is the TAKAFUL ORDER, 2008 which is introduced to regulate takaful business in this country. This is a new Order introduced to regulate and control the activities of the Takaful Operators which have been operating takaful businesses in Brunei Darussalam for some time. The provisions of the Order are largely consistent with the Insurance Order, 2006 and were designed to bring takaful business, again, on par with conventional insurance, with the addition that takaful operators must carry out their takaful business in accordance with syariah law. Takaful Operators in Brunei Darussalam provide general takaful and family takaful business. Under the Order only adequately capitalized companies will be allowed to be registered, whereby takaful companies have to satisfy stringent financial requirements such as a deposit with the Authority of a minimum amount of money and are required to have a fixed minimum paid-up share capital. This is largely important so as to ensure that takaful companies have sufficient assets and liquidity to meet insurance claims made by claimants and in particular ever escalating personal injury claims.

We have seen that the number of legislation in this country has not only increased significantly over the years but they have also been updated frequently in order to be in line with the development of time. In general our enforcement agencies have regularly enforced our laws relating to immigration, customs, corruptions, drug and road traffic. I wish to commend the Tobacco Control Unit of the Department of Health Services, Ministry of Health with the support of the Royal Brunei Police Force for conducting the recent raid on certain restaurants to stop those who did not comply with our Anti Smoking Laws.

Drafting new laws is usually not difficult. It is the ability or capacity to implement the new laws is always the issue that need to be resolved

preferably before making the laws. We do not want new laws to be mere empty words in the statute books.

Brunei being a country with small population has certain limitations. As usual the relevant Ministries or Departments which have to implement the new laws have to be ready with the trained manpower and the necessary infrastructure.

2. DISASTER MANAGEMENT

Early this year we have seen an unprecedented scale of damage to property and landscape due to heavy rainfall in this country. Since the establishment of the National Disaster Centre under the Disaster Management Order, 2005, the Centre has worked very hard in cooperation with other Government agencies to provide the necessary assistance round the clock to those affected. With proper and strategic planning referred to by the Disaster Management Order 2005 as the "Disaster Management Plan", the National Disaster Management Centre was able to implement the action plan that ensure preparedness and speedy response to the disaster.

3. DOMESTIC VIOLENCE

It is always worth remembering that an effective criminal justice system must command the respect and support of society. One key component of obtaining such support is how it treats the victims of crimes. In many cases, the only contact a member of society has with the criminal justice system is unfortunately when he or she is a victim of crime. It is therefore important that the measures undertaken must be perceived to be adequate whether it is in the form of legislation or administrative measures to protect and cater for the needs of victims. In this regard I wish to highlight the efforts of my Chambers and the Government in affording recourse under the law for victims of domestic violence.

Statistics provided by the Domestic Violence Unit of the Royal Brunei Police Force show the number of reported cases of domestic violence involving spouses and children to be in 2006-130, 2007-160 and 2008-150. Incidentally, there are also a number of husbands who reported being abused by their wives but the number is relatively small.

Though there is no specific law at present dealing with domestic violence, conducts usually falling within the usual definition of domestic violence such as causing hurt, assault or use of criminal force are offences under the Penal Code.

My Chambers view domestic violence as a serious matter. In this respect, I have directed that where a criminal offence has been committed against the victim, the matter should be brought to court even if there is a letter of withdrawal from the victim which occurs in most cases. If the victim does not wish to pursue the matter further, the victim may then choose to compound the case with the court's consent.

I am also glad that Magistrates also treat the matter with equal seriousness and the composition is usually allowed subject to the condition that the defendant refrains from further acts of abuse. Bringing the cases to court is undoubtedly time consuming and a strain on the resources of the prosecution and the Judiciary. However I feel that by bringing the abuser to court rather than being given a warning by the Police, he would be aware of the seriousness of his misconduct against the spouse and hopefully he would be deterred from committing further abuse in the future. I note that this approach seems to deter most offenders from being a subsequent appearance in court.

It is recognized however that a case to court is not the answer in every case. If the case proceeds for trial, the victim will have to undergo the trauma of testifying in court without any guarantee that the abuser be convicted. The abuse may still continue and even worsen if an abuser is charged whether or not a conviction is obtained, as in many cases, the victim and the abuser still live together. Further it may not be in the victim's interest to proceed. The abuser is usually the breadwinner of the family and the victim and the family have no other source of income. What is clearly needed and at the moment still lacking is a mechanism to ensure that the victim is protected from further abuse whilst not treating the matter lightly short of bringing a criminal prosecution.

Upon consultations with the Community Development Department of the Ministry of Culture, Youth and Sports and the Ministry of Religious Affairs, the Attorney General's Chambers is preparing new provisions specifically dealing with domestic violence to complement existing laws.

I hope that this initiative will go a long way to alleviate some of the concerns expressed by the public and ensure that the vulnerable members in our society are adequately protected.

4. ASEAN CHARTER AND HUMAN RIGHTS LAWS

The ASEAN Charter came into force on the 15th of December 2008. Its entry into force marks a new era for ASEAN as it transforms from a grouping of sovereign states to the establishment of an inter-governmental organisation with legal rights and obligations under international law.

The Charter reflects the commitments of member states to develop and strengthen ASEAN thereby to enable it to face the current environmental economic and social challenges. In particular, ASEAN's commitment to realise an ASEAN Community by 2015.

ASEAN would now be more rules based. The Charter has provided for mechanisms to ensure compliance through implementation and monitoring provisions. These provisions include dispute settlement mechanisms related to disputes on to the interpretation or application of the Charter and other ASEAN instruments.

Article 1 of the Charter provides for the purposes of the ASEAN. Among them is maintaining fundamental rights. Article 1 Clause 7 of the Charter provides "To strengthen democracy, enhance good governance and the rule of law, and to promote and protect human rights and fundamental freedoms, with due regard to the rights and responsibilities of the member states of ASEAN."

Related to this is the most significant development of the Charter, establishment of an ASEAN Human Rights Body. Its establishment signifies ASEAN's commitment to issues related to the promotion and protection of human rights.

Brunei Darussalam's Constitution provides that the official religion is the Islamic religion, provided that all other religions may be practiced in peace and harmony. Respect for human rights is one of the fundamental purposes of Islam. Our laws do guarantee basic human rights such as right to life, which is considered inviolable under Islamic Laws, the right to own property, the right to justice and fair trial and most importantly protecting the rights of women and children.

There are available existing legislation which provide for the protection of human rights in general. The existing fundamental law which provides for the protection of human rights in general includes the following –

- Penal Code (Chapter 22)
- Criminal Procedure Code (Chapter 7)
- Children Order
- Women and Girls Protection Act
- Islamic Family Law Order
- Labour Act

5. LEGAL SERVICES

My office had successfully hosted the 12th ASEAN Senior Law Officials Meeting (ASLOM) and the 7th ASEAN Law Ministers Meeting (ALAWMM) in the October 2008. At the ASLOM meeting, Brunei Darussalam presented a paper titled "The Progressive Liberalisation of Trade in Legal Services In ASEAN". The paper discussed the apparently impeding need for a liberalised legal services sector in view of recent developments in ASEAN in particular the ASEAN Economic Blueprint. The ASEAN Senior Law Officials Meeting also agreed further consultations is needed in this matter and the ASEAN Law Ministers agreed that an ASEAN Law Forum can be held to discuss this very important topic.

Whenever my office is involved in advising on matters related to international trade whether in ASEAN or beyond, liberalisation of legal services has always been an issue that needs to be addressed. As ASEAN is working towards becoming a single market with a freer flow of trade in goods, services and investment across the territories of the member states, this will result in many cross border transactions involving international and multinational service providers and clients. Legal advice on a wide range of legal issues may arise, which may include legal advice under different jurisdictions, depending on which law shall apply within that particular case.

Hence, in trying to assist ASEAN towards achieving the objective to form an ASEAN Economic Community before 2015, we may really have to start considering the possibility of the liberalisation of the legal services sector too.

This would involve the need to study the possibility of making legal commitments to allow foreign lawyers to practice law in Brunei Darussalam. We would also need to ensure that our local lawyers are permitted to practice law in other jurisdictions as well. So far, such commitments are not provided for in the free trade agreements that have been concluded.

We are pleased to report that in February this year we have established dialogue between all of the relevant stakeholders namely, the Law Society, the Judiciary (who is responsible for the admission of legal practitioners in Brunei), the State Judicial Department, the trade department of the Ministry of Foreign Affairs and Trade and we are now collectively studying the modalities of any possible commitments that may need to take place, bearing in mind our obligations under the ASEAN Charter and also the deadline for an open ASEAN Economic Community by 2015. I would like to thank the Law Society, the Judiciary, the State Judicial Department and the Ministry of Foreign Affairs and Trade for their contributions and efforts in this and we look forward to having a progressive working relationship in this matter.

CONCLUSION

I would like to thank all my officers from the various Divisions in the Chambers namely Criminal Justice, Civil, International Affairs, 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, Internal Security Department and our Fire and Rescue Department (the Department that runs the Disaster Management Centre) for the assistance and cooperation and in the 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 the good relations between my Chambers and the Judiciary as well as with the private practitioners and the 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

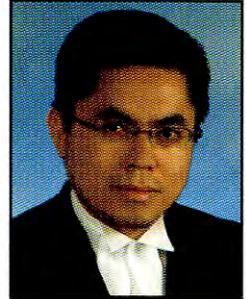


Muhammad Zainidi Abdul Hamid
President, Law Society of
Brunei Darussalam

BISMILLAHIR RAHMANIR RAHIM

OPENING OF THE LEGAL YEAR 2009

Speech by the President of the Law Society of
Brunei Darussalam
Tuesday, 7th April 2009



My Lord Chief Justice, the Honourable Justices of the Supreme Court of Brunei Darussalam, the Honourable Dato Seri Paduka Attorney General, your excellencies of the diplomatic corps, distinguished invited guests, fellow counsels and colleagues of the legal profession, ladies and gentlemen, Assalamualaikum Warahmatullahi Wabarakatuh and a very good morning to you all.

As with my learned friend the Honourable Dato Seri Paduka Haji Kifrawi bin Dato Paduka Haji Kifli, it also gives me great pleasure and I am also very honoured to be able to address your Lordship again on this occasion.

We should also be thankful for the blessings of Allah Subhanahu Wata'ala bestowing on us among many others, good health, to make it possible for us to be present this morning for this very important annual event in the legal calendar. It is a time where we all come together as friends committed to support one another in our different functions to uphold justice and the rule of law.

It is also a time for us to showcase the excellent legal system that we have and the independence of the judiciary. All this is also made possible by the wise leadership of our benevolent ruler His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam.

We are very thankful to the Attorney General's Chambers in their tireless and continuous efforts in revising the Laws of Brunei to keep them up to date. The Law Society has been on various occasions been given the opportunity to comment on various proposed amendments and additions to the law, such as the Bankruptcy Laws and Companies Law. It is indeed one of our many functions to do so when called upon as stated in section 4(1) (c) of the Law Society Order. It states that:

"The purpose of the Society shall be to assist the Government and the Courts in all matters affecting legislation submitted to it, and the administration and practice of law in Brunei Darussalam."

My Lord, earlier this year, the Ministry of Foreign Affairs and Trade, facilitated by the Attorney General's Chambers, have given us, the Law Society, a briefing on the Progressive Liberalization of Trade in Legal Services in ASEAN. The objective of the briefing, which was requested by us, was to gain better understanding of what our commitments in respect of liberalization of trade in legal services are in the ASEAN and other Free Trade Agreements that Brunei Darussalam have entered. It is a laudable gesture and a very important one that the Ministry of Foreign Affairs and Trade and the Attorney General's Chambers made in bringing us in to discuss an issue that is important to us and for the survival of the local Bar.

It gives us the opportunity to discuss with the relevant negotiators on the current status of the market and our legal system, our current openness to entry of foreign practitioners, compare our jurisdiction with others and also discuss with them of the way forward. Liberalization of trade in the current era globalization is probably inevitable and may even be essential sometimes but this should not be without proper regard to the development of the current crop of young and upcoming local lawyers.

It is not my intention to give an opinion on which way we should go on this occasion as the current consultation between us and the Ministry of Foreign Affairs and Trade are still continuing. I am confident that the outcome will be beneficial to all parties concerned.

Your Lordship has given us a timely reminder of His Majesty's 'titah' of 25 years ago urging His Majesty's subjects especially those who are still in schools and institutions of higher learning to choose the subjects of law so that in future they can play an important role in the management of judicial and advocacy may it be in the Government or private sectors. This 'titah' we believe still applies now, if not more so. We in the private sector fully support His Majesty's vision, even now as we strive to increase our membership with more local practitioners in line with His Majesty's aspirations.

I am pleased that your Lordship has kindly noted our efforts in conducting seminars for practitioners. We have last year organized a workshop on appellate advocacy. The course was conducted by very experienced litigators from Singapore and also from Brunei. The response was very encouraging from the counsels from the private sector and the Attorney General's Chambers.

I am sure there have been some improvements on the ability of those who attended the workshop in the quality of their submissions before this Honourable Court. We hope to be able to organize more of these workshops, seminars and refresher courses in future. We would welcome perhaps in future those senior members of the judiciary and the bar to volunteer their time to become instructors and trainers to pass on their knowledge, give useful pointers and share their experience with those practitioners who wants to learn. There is no one better to learn from on how to conduct ourselves in these courts than from your Lordships and your Ladyships.

On the social calendar we also had a very busy time in the last twelve months. We not only had the annual Legal Year Dinner but we also organized an informal dinner. For this year's legal year we organized more games than last year. Netball and basketball were added to the usual golf, badminton, bowling and futsal tournaments. We would like to take this opportunity to sincerely thank those who have worked firelessly in organizing these sporting events, dinners and training courses.

We also give special thanks to the senior members of the Judiciary and the Attorney General's Chambers and other sponsors for contributing the challenge trophies and prizes and time attending to officiate the events and tournaments and present prizes. These activities are beneficial to enhance the good relationship between our members, the Judiciary and the Attorney General's Chambers. The sporting events will also promote good health for us to be able to work better. It is hoped that the enthusiastic participation and support that we have will grow from others that have not find the time to participate this year.

Also during the past year we have followed up on our intention to have meetings with the Honourable Chief Registrar and other senior members of the judiciary to discuss any ways of improving the services of both parties. We also had a fruitful meeting with the Honourable Dato Seri Paduka Attorney General and his officers. These meetings are essential so that we are able to continuously find ways to improve our services in the administration of justice and other commercial matters such as registration of companies, trademarks, patents and so forth.

We have also organized a visit to Jerudong Prison for our members to gain better understanding of the workings of the Prisons Department. We intend to continue these consultations and visit not only to the aforementioned Departments but also to other Government Ministries and Departments such as the Ministry of Finance, the Police and the Land Office which deals a lot with lawyers so that the good working relationship will be maintained and enhanced.

My Lord, on the matter of the complaints against lawyers, there are fewer new ones in the past year and at least one of those was already withdrawn. I have mentioned last year that most complaints are waiting to be considered by a panel of four members of the Inquiry Committee and that there has been difficulty in getting enough members into the Inquiry Committee. I hasten to add that when a panel of four members are constituted to look into a particular complaint another difficulty arise where the schedule of these panel members has to be aligned for them to sit together for a few days to hear the complaint.

To ensure partiality, the law states the members of the Inquiry Committee must comprise of two members of the Law Society, one legal officer from the Attorney General's Chambers and a prominent member of the business community or other professions. These people are understandably very busy people and getting their schedules aligned together can be very difficult. The same difficulty may also arise in the Disciplinary Proceedings stage as it has the same structure as the Inquiry Committee. It should be noted that both these committees works independently from the Law Society itself. They have their own panel and chairpersons appointed by your Lordship. We do not make our own judgments against our own members. We are the ones who will pursue an action against them in the Disciplinary Committee stage if this is the recommended action by the Inquiry Committee. Further action against them in a show cause hearing before a panel of three judges will also rest on our shoulders. Any complaints that is first submitted to us will be given directly to the Chairman of the Inquiry Committee for his action and he will then have to report the findings of his appointed panel to the Council of the Law Society. Their findings will determine whether the matter will be pursued further in the Disciplinary Committee. It is hoped that the Inquiry Committee will try to speed up the process of dealing with complaints submitted to them. In the mean time, it may be necessary for us to look into the disciplinary process as a whole with your Lordship and the Attorney General's Chambers to find ways to improve it. It has to be acknowledged that the small number of practicing lawyers is a contributing factor to the time taken in dealing with complaints.

To end this speech, I join your Lordship in expressing gratitude for the Honourable Chief Registrar and those involved in the successful staging of this Opening of the Legal Year 2009.

Let us pray that the remainder of the year and the future ahead of us will bring us much good blessings and success.

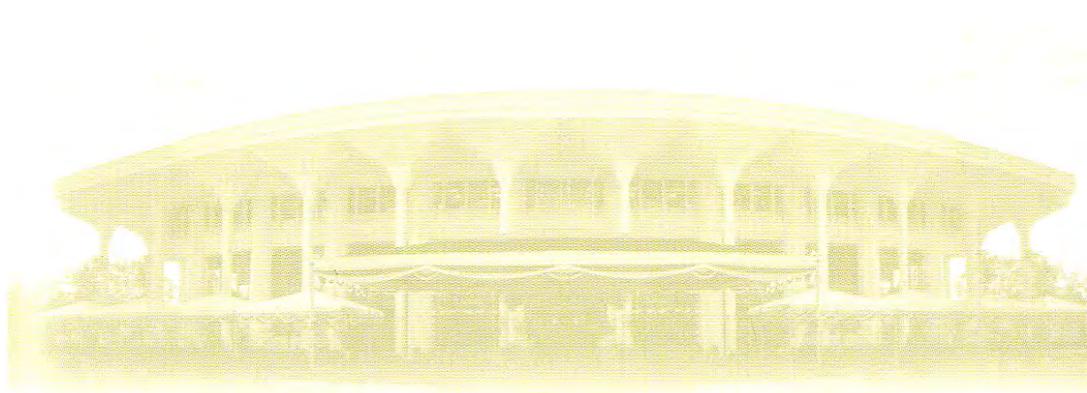
Thank you.

MUHAMMAD ZAINIDI ABDUL HAMID
PRESIDENT
LAW SOCIETY OF BRUNEI DARUSSALAM



High Court - Supreme Court Building

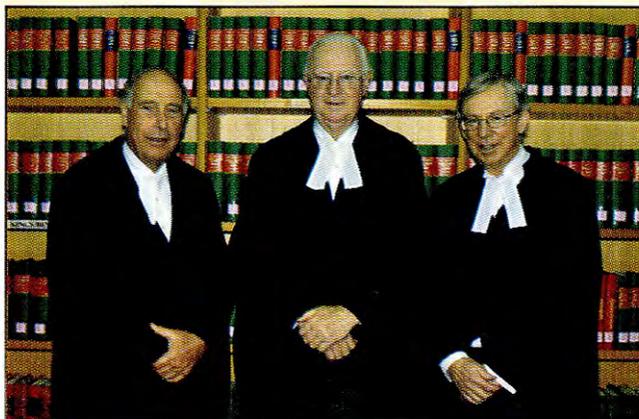
KM 1½, JALAN TUTONG
BANDAR SERI BEGAWAN BA1910
BRUNEI DARUSSALAM



IN MEMORIAM OF THE LATE PRESIDENT OF THE COURT OF APPEAL



*The Hon. Justice Sir Noel Plunkett Power
28th April 2007 - 19th November 2009*



Members of the Court of Appeal November 2009
Justice John Barry Mortimer, Justice Sir Noel Plunkett Power,
Justice Geoffry Lance Davies

SUPREME COURT JUDGES



Chief Justice Dato Seri
Paduka Haji Kifrawi bin
Dato Paduka Haji Kifli



Justice Dato
Paduka Steven Chong
Wan Oon

High Court Judge



Justice Dato
Paduka Hairol Arni
Haji Abdul Majid

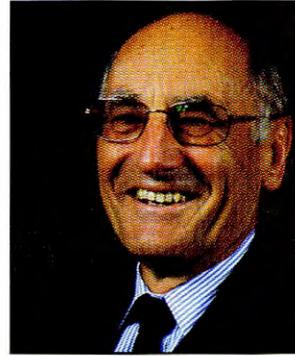
High Court Judge

**HIGH COURT VISITING JUDGES
(JUDICIAL COMMISSIONERS OF THE SUPREME COURT)**



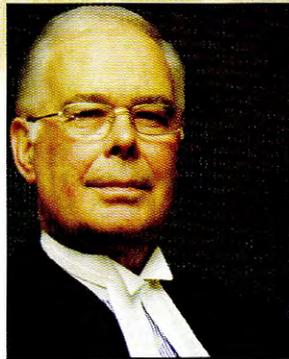
James Kerr Findlay

Judicial Commissioner



Nicholas John Barnett

Judicial Commissioner



Gareth John Lugar - Mawson

Judicial Commissioner

**CHIEF REGISTRAR OF
THE SUPREME COURT**



Pg Rostaina binti Pg Hj Duraman

Chief Registrar of the Supreme Court

INTERMEDIATE COURT JUDGE



Lim Siew Yen

Intermediate Court Judge

OFFICERS OF THE SUPREME COURT AND HIGH COURT



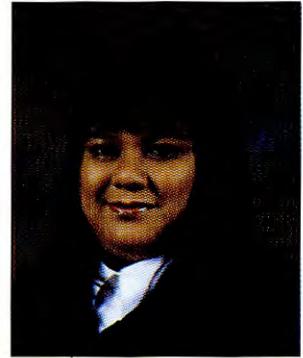
Pg Hjh Hanani binti
Pg Hj Metusain

**Deputy Chief Registrar
of the Supreme Court**



Radin Safiee bin
Radin Mas Basiuni

**Senior Registrar
of the Supreme Court**



Ramzidah binti PDKD
Hj Abdul Rahman

**Senior Registrar
of the Supreme Court**



Dk Hjh Norismayanti binti
Pg Hj Ismail

**Senior Registrar
of the Supreme Court**



Hazarena binti POKSJDJ
Hj Abu Hurairah

**Registrar
of the Supreme Court**



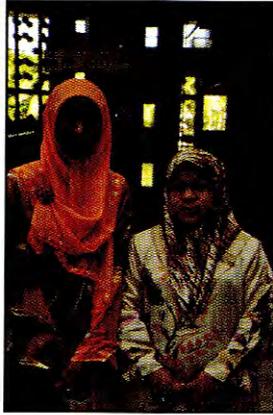
HIGH COURT OFFICERS AND STAFF



PROBATE SECTION



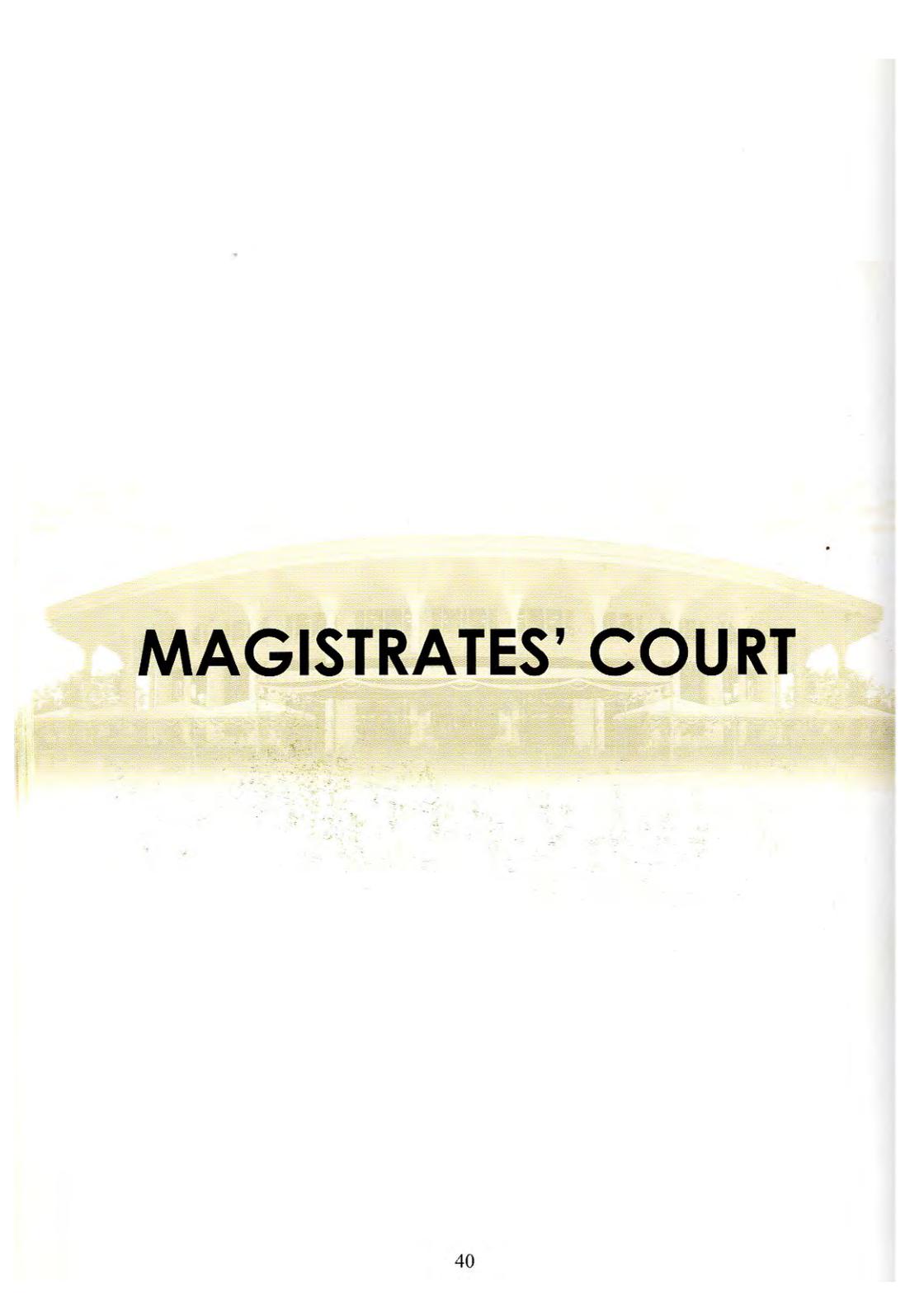
BANKRUPTCY SECTION



COURT TRANSLATORS



COURT INTERPRETERS



MAGISTRATES' COURT

OFFICERS OF THE MAGISTRATES' COURT BANDAR SERI BEGAWAN



Hj Abdullah Soefri
bin POLSM DSP Hj
Abidin

Chief Magistrate



Muhammed Faisal
bin PDJLDDSP Hj Kefli

Senior Magistrate



Pg Masni binti Pg Hj
Bahar

Senior Magistrate



Lailatul Zubaidah binti
Hj Mohammad Hussain

Magistrate



Harnita Zelda Skinner

Magistrate



BANDAR SERI BEGAWAN MAGISTRATES' COURT OFFICERS AND STAFF

KUALA BELAIT, MAGISTRATES AND COURT STAFF



TUTONG, MAGISTRATE AND COURT STAFF



TEMBURONG, MAGISTRATE AND COURT STAFF



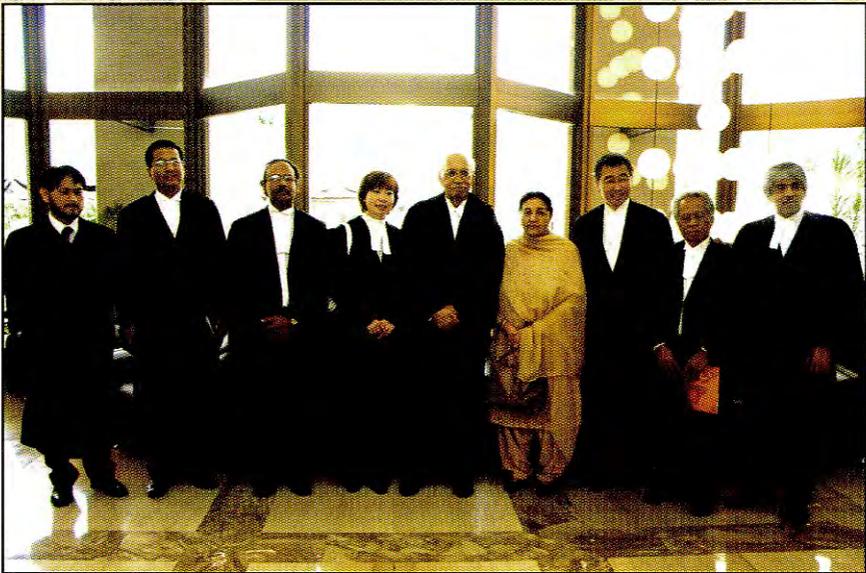
OFFICERS OF THE STATE JUDICIARY DEPARTMENT





EVENTS 2009

LEGAL YEAR 2009





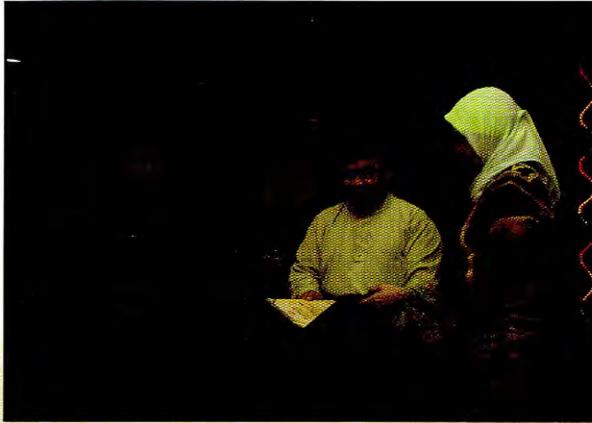
**FORMER CHIEF JUSTICE DATO SERI PADUKA
MOHAMMED SAIED
FARWELL CEREMONY, AUGUST 2009**



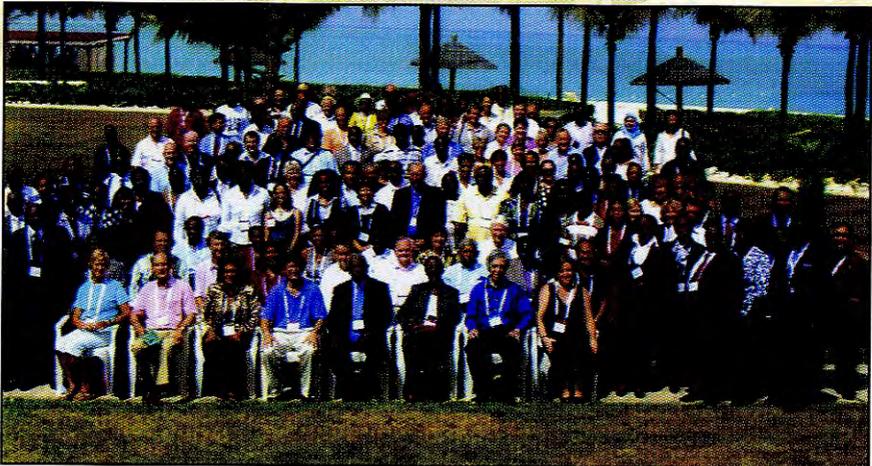
**FORMER CHIEF JUSTICE DATO SERI PADUKA
MOHAMMED SAIED
FAREWELL DINNER**



**DATIN PADUKA HJH HAYATI BINTI POKSDSP
HJ MOHD SALLEH
FAREWELL CEREMONY UPON HER APPOINTMENT
AS THE ATTORNEY GENERAL**



CHIEF JUSTICE OFFICIAL WORKING VISITS



COMMONWEALTH MAGISTRATES' AND JUDGES' ASSOCIATION
2009 15TH TRIENNIAL CONFERENCE,
TURKS AND CAICOS ISLANDS

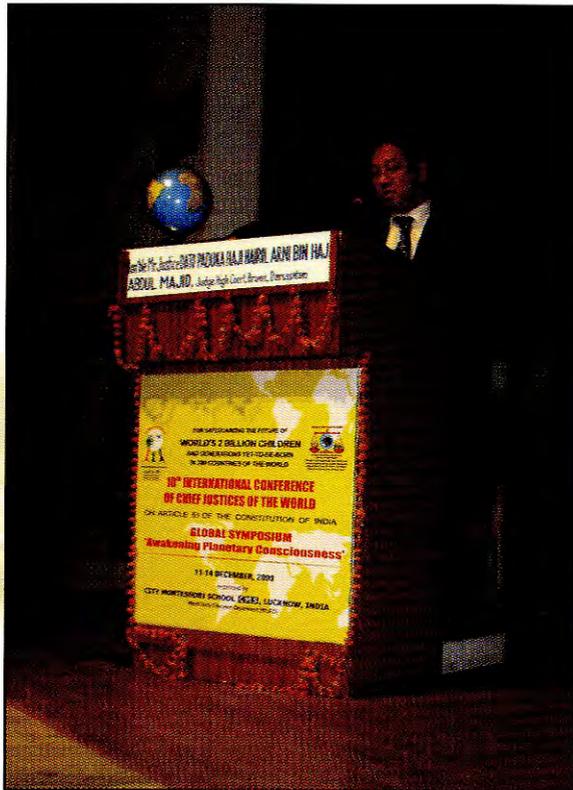


CHIEF JUSTICE AND SEC GENERAL OF ASEAN SURIN PITSUWAN AT ASEAN LAW ASSOCIATION 10TH GENERAL ASSEMBLY, HANOI.

CHIEF JUSTICE VISIT TO THE SYARIAH COURT AND STATE JUDICIARY DEPARTMENT



JUSTICE DATO PADUKA HAIROL ARNI AT INTERNATIONAL CONFERENCE OF CHIEF JUSTICES OF THE WORLD, INDIA.



JUSTICE DATO PADUKA HAIROL ARNI GIVING SPEECH DURING THE INTERNATIONAL CONFERENCE OF CHIEF JUSTICES OF THE WORLD, INDIA.

JUDICIAL OFFICERS OFFICIAL STUDY VISITS

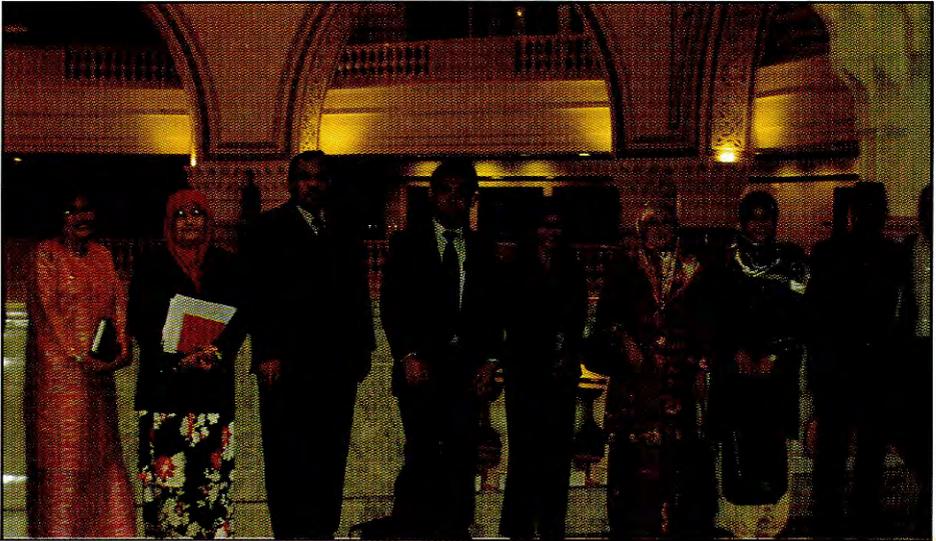


USPTO GLOBAL INTELLECTUAL PROPERTY ACADEMY IPR STUDY
TOUR FOR JUDGES & PROSECUTORS USPTO HEADQUARTERS,
ALEXANDRIA, VA USA, 10-23 MAY 2009



APEC-ASEAN-USPTO
COLLOQUIUM FOR PUBLIC PROSECUTOR AND THE JUDICIARY ON
INTELLECTUAL PROPERTY RIGHT ENFORCEMENT
HOTEL ISTANA, KUALA LUMPUR, MALAYSIA

WORKING VISIT TO FEDERAL COURT, PUTRAJAYA MALAYSIA



WORKING VISIT OF BRUNEI DELEGATION HEADED BY ACTING
DIRECTOR OF JKN WITH CHIEF REGISTRAR OF MALAYSIA FEDERAL
COURT



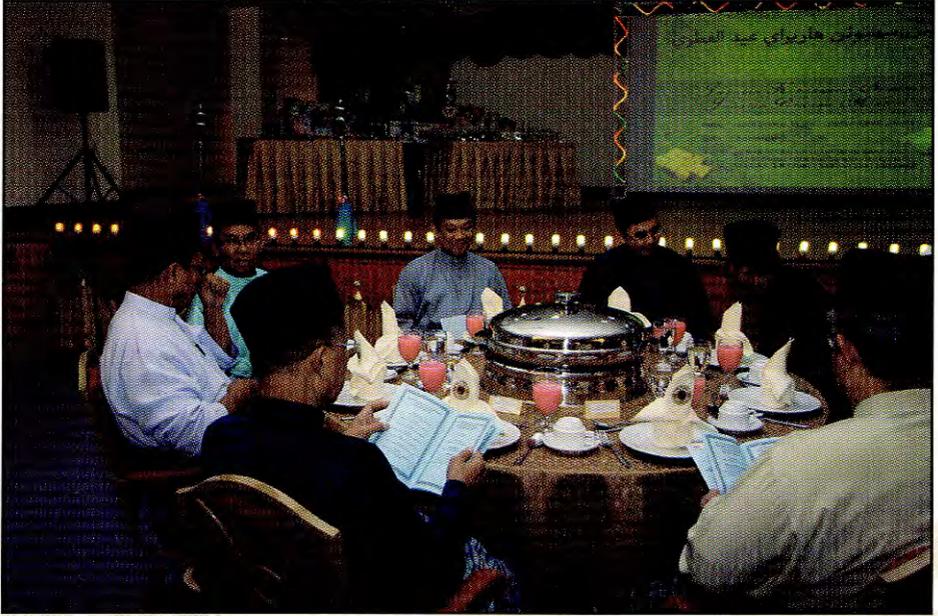
WORKSHOP ON "DISPUTE RESOLUTIONS SYSTEMS: POLICIES,
STRUCTURE AND STRATEGIES" AT THE SINGAPORE MEDICATION
CENTRE



**CALENDAR OF EVENTS
2009**

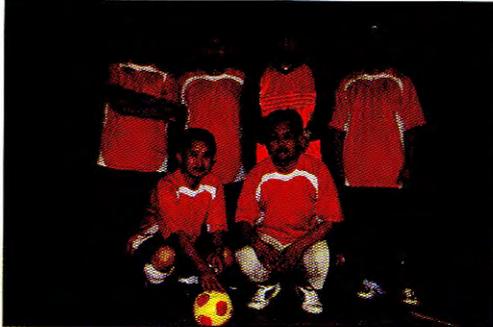
HARI RAYA CELEBRATION 2009

12th October 2009

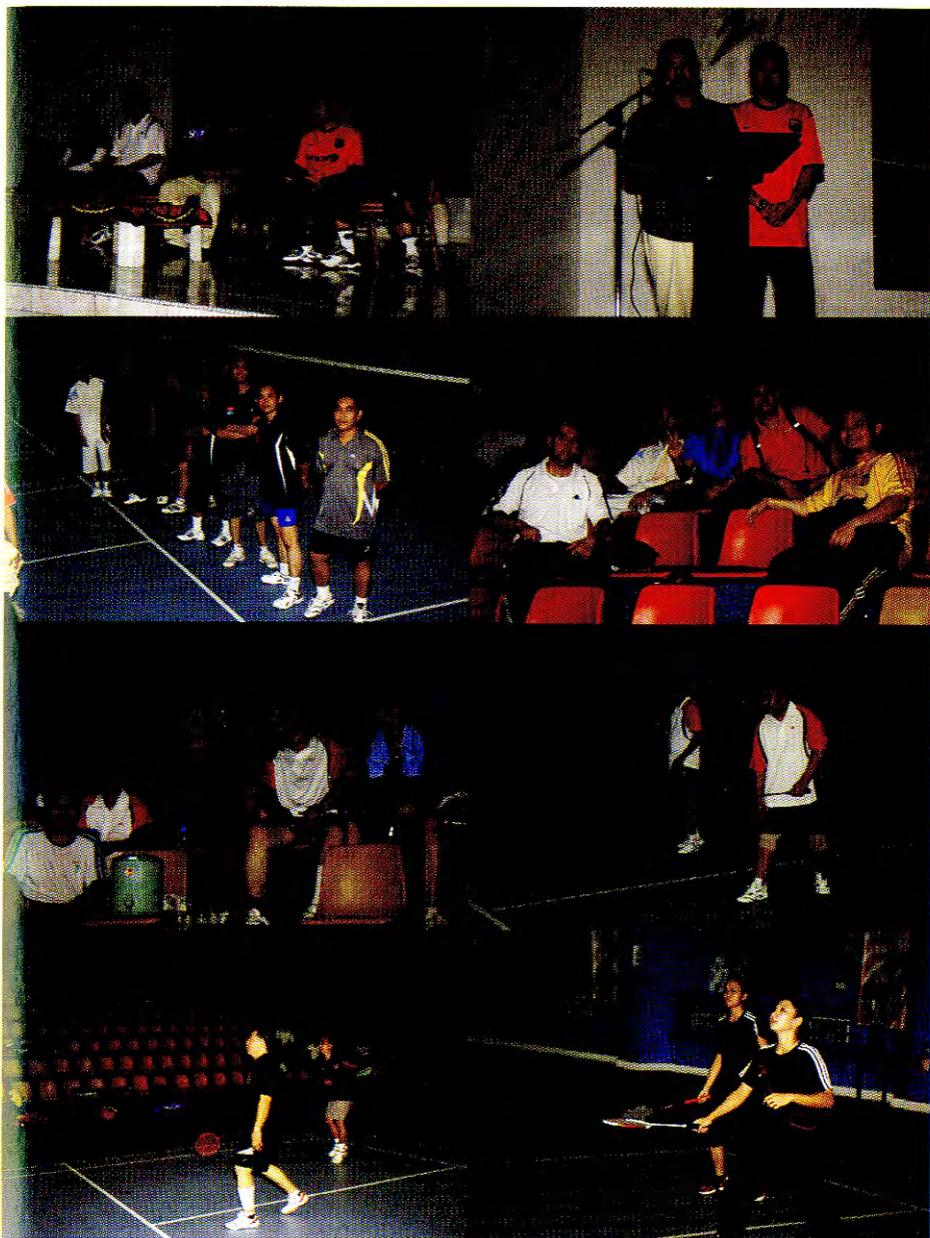


**STATE JUDICIARY DEPARTMENT
FUTSAL TOURNAMENT**
19th July 2009





STATE JUDICIARY DEPARTMENT BADMINTON TOURNAMENT



FIRE AWARENESS AND PREVENTION BRIEFING

13th June 2009





STATISTICS

MAGISTRATES' COURTS SUMMONS & CRIMINAL CASES

	2005	2006	2007	2008	2009
BRUNEI MUARA	2415	2662	3364	3412	2693
BELAIT	432	310	321	366	301
TUTONG	123	83	144	79	98
TEMBURONG	32	6	12	47	16

MAGISTRATES' COURTS CIVIL CASES

	2005	2006	2007	2008	2009
BRUNEI MUARA	784	1926	1979	1533	1594
BELAIT	100	104	95	273	271
TUTONG	7	5	11	239	275
TEMBURONG	0	0	0	0	0

CHAMBER HEARING BEFORE SENIOR REGISTRAR & REGISTRAR

	2005	2006	2007	2008	2009
CASE DEALT WITH	231	554	454	297	334

INTERMEDIATE COURT CRIMINAL CASE

	2005	2006	2007	2008	2009
HEARD	22	19	21	14	14

INTERMEDIATE COURT CIVIL CASE

	2005	2006	2007	2008	2009
CASE DEALT WITH	190	193	135	107	98

CIVIL & CRIMINAL APPEAL CASES [FROM MAGISTRATES COURT TO HIGH COURT]

	2005	2006	2007	2008	2009
CIVIL	3	8	8	8	6
CRIMINAL	41	23	31	37	41

HIGH COURT CRIMINAL CASES

	2005	2006	2007	2008	2009
CASE DEALT WITH	29	22	11	21	26

HIGH COURT CIVIL CASE

	2005	2006	2007	2008	2009
CASE DEALT WITH	196	174	161	192	199

CIVIL & CRIMINAL APPEAL CASES [FROM HIGH COURT TO COURT OF APPEAL]

	2005	2006	2007	2008	2009
CIVIL	21	17	20	29	14
CRIMINAL	15	14	17	12	12

LEGAL AID

	2005	2006	2007	2008	2009
GRANTED	7	0	5	2	2

LETTERS OF ADMINISTRATION

	2005	2006	2007	2008	2009
RECEIVED	318	323	321	326	367
ISSUED	264	237	277	268	300

PROBATE

	2005	2006	2007	2008	2009
RECEIVED	9	10	11	10	5
ISSUED	6	7	8	7	3

BANKRUPTCY

	2005	2006	2007	2008	2009
BANKRUPTCY NOTICE	350	387	351	523	740
RECEIVING ORDER	220	303	268	269	410
ADJUDICATION ORDER	56	114	78	7	42
RECISSION	19	29	35	25	24
DISCHARGE OF ADJUDICATION ORDER	1	0	0	46	0
WINDING-UP ORDERS	3	2	1	2	3

MARRIAGES AND DIVORCES

	2005	2006	2007	2008	2009
MARRIAGES	158	161	143	132	156
DIVORCE	16	22	21	33	16

THE REVENUE OF THE SUPREME COURT BRUNEI DARUSSALAM

	2007	2008	2009
ESTATE DUTY	\$669,584.87	\$323,204.50	\$976,624.60
STAMP DUTY	\$4,242,192.98	\$2,021,559.89	\$2,398,018.20
SEARCH & REGISTRATION	\$37,301.00	\$33,760.00	\$35,360.00
CIVIL	\$1,245,332.75	\$1,186,456.95	\$1,199,908.54
CRIMINAL	\$1,735,622.58	\$2,144,078.64	\$1,790,258.70
MISC	\$3,850.14	\$10,809.67	\$2,983.02
TOTAL REVENUE	\$7,933,884.32	\$5,719,879.65	\$6,403,633.07

COMMITTEE MEMBERS OF THE OPENING OF THE LEGAL YEAR 2010

1. **Protocol Committee**

Adat Istiadat Department Officers
Radin Safiee bin Radin Mas Basiuni
Ramzidah binti PDKD Hj. Abdul Rahman
Muhammad Hardy Iman bin Abdullah Ukrit
Insp Md Adi Hamree bin Hj Rakawi
State Judiciary Department Officers and Staff

2. **Invitation and Secretariat Committee**

Pg. Rostaina binti Pg. Hj. Duraman
Hjh. Mariah binti Awg. Ali
Suzannah binti Basman
Pg. Hjh. Rohaiyah binti Hj. Md. Yassin
Noorhadina binti Abd. Aziz
Hasiah binti Abdullah
Masrina binti Bakar
Norhayati binti Masri

3. **Refreshments Committee**

Pg. Masni binti Pg. Hj. Bahar
Lailatul Zubaïdah binti Hj. Mohammad Hussain
Hazarena binti POKSJDP Hj Abu Hurairah
Pg. Hjh. Rohaiyah binti Hj. Md. Yassin
Hjh. Siti Noraini binti Matusin

4. **Facilities Committee**

Pg. Hj. Mohd. Khairuddin bin Pg. Hj. Hashim
Hj. Omar bin Hj. Daud
Lim Ching
State Judiciary Department Officers and Staff

5. **Building Maintenance Committee**
Hj. Morshidi bin Hj. Mokhtar
Hj. Omar bin Hj. Daud
Mohd. Daud bin Hj. Metussin
State Judiciary Department Officers and Staff
6. **Media Committee**
Mohd. Faisal bin PDJLD DSP Hj. Kefli
Suzannah binti Hj. Sulaiman
7. **Photography Committee**
Radin Safiee bin Radin Mas Basiuni
Haji Badaruddin bin Hj. Abd. Karim
Muhammad Zulfadhli bin Hj. Abd Hamid
Alizah binti Hidup
Shahliza Hani binti Ahmad Khan
8. **Finance Committee**
Tamin bin Hj. Lamat
Hjh. Yalus binti Abdullah
Aini binti Hj. Abd. Mohin
9. **Program Committee**
Pg. Hjh. Rostaina binti Pg. Hj. Duraman
Harnita Zelda Skinner
Pg. Darussalam bin Pg. Hj. Abbas
Hj. Md. Yussof bin Begawan Mudim Dato Paduka Hj Bakar
Hjh. Siti Hamidah binti Hj. Abd Rahman
Noridah binti Hj. Matnor
Hj. Badaruddin bin Hj. Abd. Karim
Muhammad Zulfadhli bin Hj. Abd. Hamid
Alizah binti Hidup

10. **Royal Police Force Guard of Honour Committee**

Mohd. Faisal bin PDJLD DSP Hj. Kefli
AG. Supt Mohd Hadini bin Hj Othman
DSP Hj. Khairur Rijal bin Hj Abu Salim
ASP Zaila binti Hj. Zaini
Insp. Hj. Mohammad bin Hj Damit
CPI 2926 Kamaludin bin Othman
Lcpl 4437 Md Nazri bin Abdullah

11. **Reception Committee**

Pg. Hjh. Hanani binti Pg. Hj. Metusain
Radin Safiee bin Radin Mas Basiuni
Ramzidah binti PDKD Hj. Abd. Rahman
Lailatul Zubaidah binti Hj. Mohammad Hussain
Dk. Norismayanti binti Pg. Hj. Ismail
Hazarena binti POKSJDP Hj. Abu Hurairah
Harnita Zelda Skinner
Hjh. Maimun binti Hj. Tajaah
Hjh. Haireni binti Hj. Damit
Hjh. Fauzihana binti Hj. Mohammad
Rozliani binti A. Timbang
Noorhayati binti Hj. Ismail
Norhayati binti Hj. Idris
State Judiciary Officers and Staff

12. **Emcee Committee**

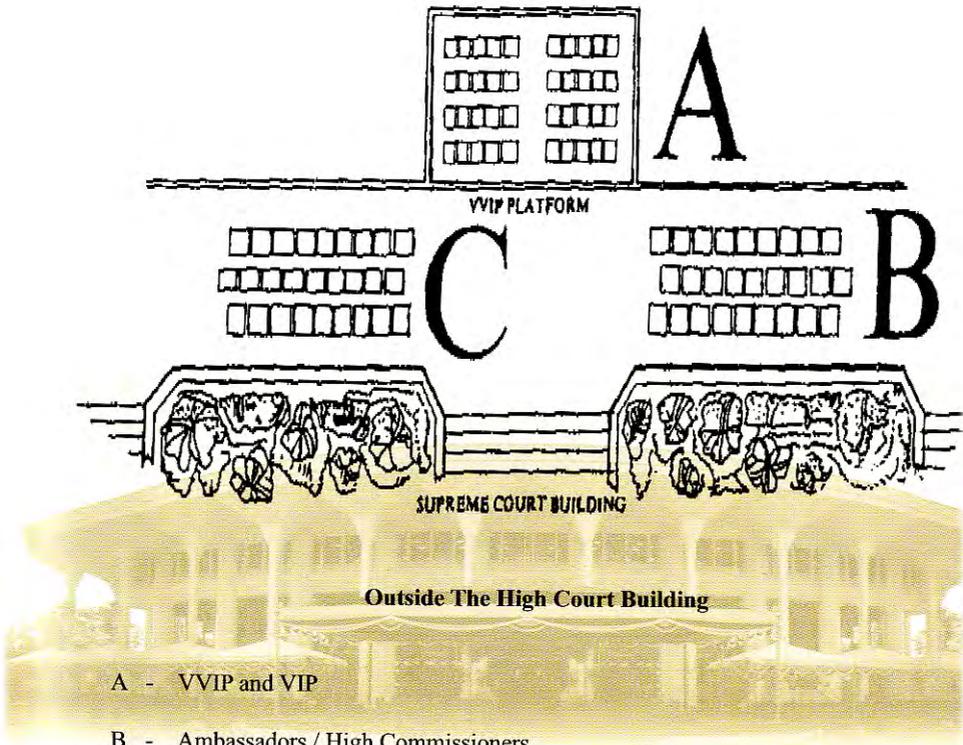
Hjh. Haireni binti Hj. Damit
Pg. Norfarzat Irwani binti Pg. Hj. Mohd. Jaafar
Soffriana bin Hj. Masri

13. **Thanks Giving Committee**

Pg. Hj. Mohd. Khairuddin bin Pg. Hj. Hashim



SITTING PLANS

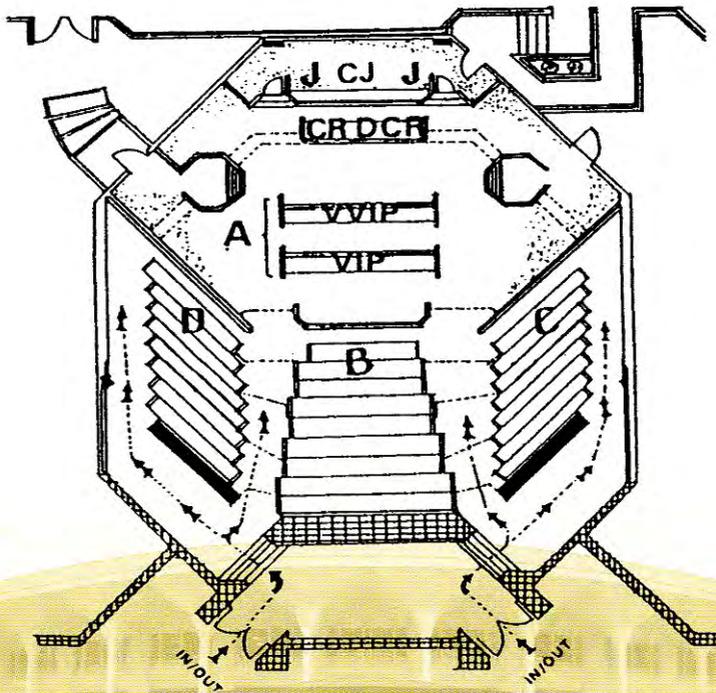


Outside The High Court Building

- A - VVIP and VIP

- B -
 - Ambassadors / High Commissioners
 - Business Communities
 - Advocates / Legal Practitioners
 - Police and other Prosecuting Officers
 - Schools, ITB / UNISSA

- C -
 1. Permanent Secretaries
 2. Chairman EDB / UBD Vice Chancellor / ITB / UNISSA
Deputy Chairman PSC / Members of Board of Directors of Yayasan
 3. Con Sec Crown Prince
 4. Deputy Permanent Secretary
 5. Heads of Department
 6. Deputy Heads of Department
 7. Senior Government Officers
 8. Assistants Solicitor General / Legal Counsels / Legal Officers
 9. Officers of Syariah Courts



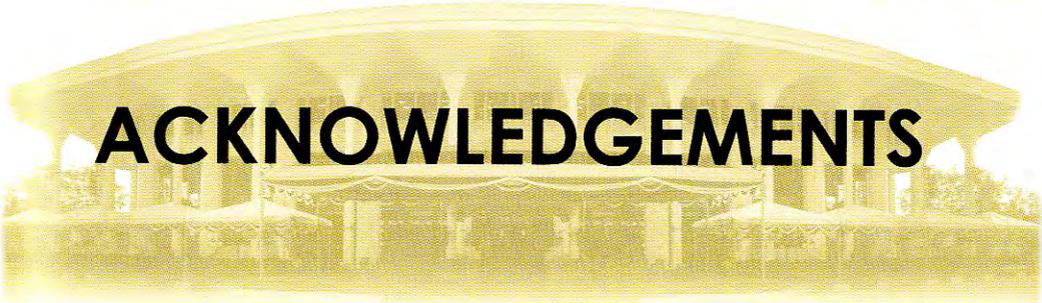
In the High Court Building

A - VVIP and VIP

- B -
1. Chief Magistrate / Senior Magistrate / Magistrates and Registers of the Supreme Court / Officers of the Syariah Courts
 2. Assistants Solicitor General / Legal Counsels Legal Officers
 3. Advocates / Legal Practitioners

- C -
1. Permanent Secretaries
 2. Chairman EDB / UBD Vice Chancellor / ITB / UNISSA
Deputy Chairman PSC / Members of Board of Directors of Yayasan
 3. Con Sec Crown Prince
 4. Deputy Permanent Secretary
 5. Heads of Department
 6. Deputy Heads of Department
 7. Senior Government Officers

- D -
1. Ambassadors / High Commissioners
 2. Police and Other Prosecuting Officers
 3. Business Communities
 4. Officers and Staff of Judicial Department
 5. Schools



ACKNOWLEDGEMENTS

ACKNOWLEDGEMENTS

PRIME MINISTER'S OFFICE

MINISTRY OF RELIGIOUS AFFAIRS

MINISTRY OF FOREIGN AFFAIRS AND TRADE

ADAT ISTIADAT NEGARA

ROYAL BRUNEI POLICE FORCE

GOVERNMENT PRINTING DEPARTMENT

ATTORNEY GENERAL'S CHAMBERS

INFORMATION DEPARTMENT

RADIO AND TELEVISION BRUNEI

MUNICIPAL DEPARTMENT

FIRE AND RESCUE DEPARTMENT

PUBLIC WORKS DEPARTMENT

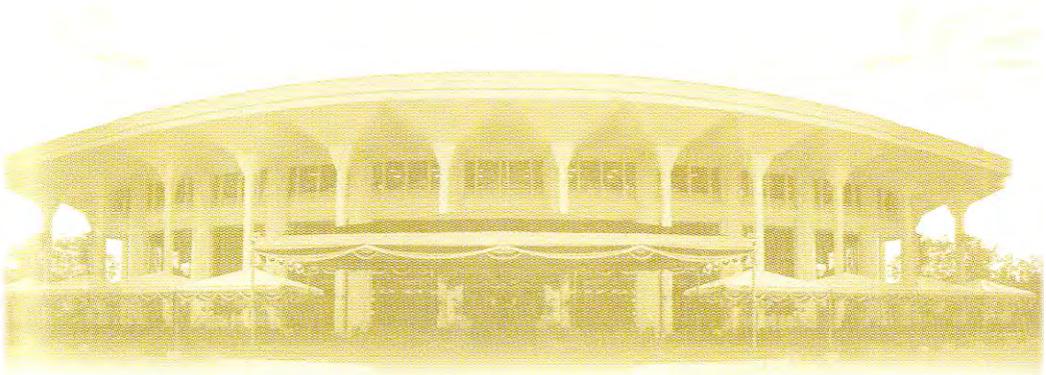
ELECTRICAL SERVICES DEPARTMENT

JASTRE

OFFICERS AND STAFF OF THE STATE JUDICIARY

ORGANISING COMMITTEE FOR THE OPENING OF THE LEGAL
YEAR 2010

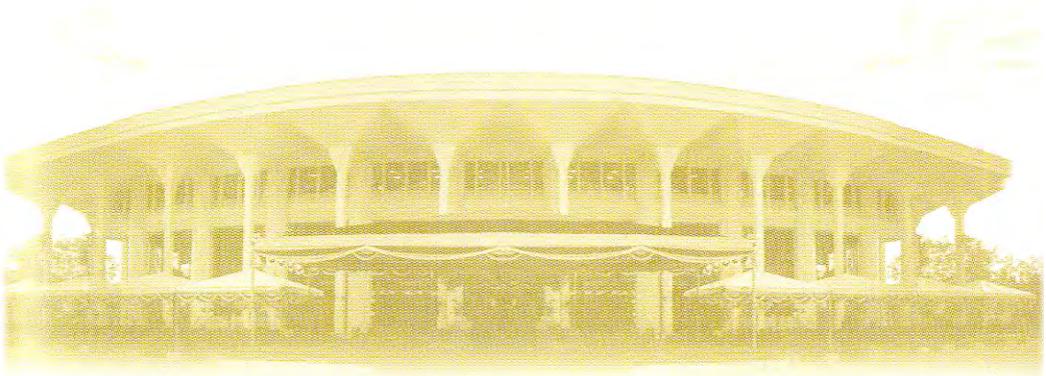
Notes



Notes



Notes





Di cetak oleh Jabatan Percetakan Kerajaan, Jabatan Perdana Menteri,
Negara Brunei Darussalam.

Copyright @ Judiciary Brunei Darussalam 2010
All rights reserved.

No part of this publication may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopy, recording or any information storage and retrieval system, without permission in writing from the Judiciary

2010 Edition (March)

Printed by the Government Printing Department,
The Prime Minister's Office, Brunei Darussalam