

SPEECH BY

THE HONOURABLE CHIEF JUSTICE

DATO SERI PADUKA HJ KIFRAWI BIN DATO PADUKA HJ KIFLI

OPENING OF LEGAL YEAR 2018

TUESDAY 6TH FEBRUARY, 2018

Bismillahirrahmanirrahim, Assalamualaikum Warahmatullahi Wabarakatuh and Good Morning,

The Honourable Attorney General,

The Honourable Chief Judge of the Syar'ie Court,

President of Brunei Darussalam's Law Society,

Justices, Judges, Members of the Bar, Distinguished Guests,

Ladies and Gentlemen.

1. On behalf of the Judiciary, it is both a privilege and a pleasure to welcome all of you this morning to our ceremonial Opening of the Legal Year 2018.
2. As we were unable to hold an Opening of the Legal Year 2017, I am extremely pleased that we are all gathered here once again to remind ourselves of the important role we all play in upholding the rule of law be it judges, prosecutors or private practitioners. Occasions of this kind are important because they give us time to pause from our busy professional lives and think about the purpose and importance of the practice and profession of the law, and the manner in which it is practiced. In so doing, we might reflect on the fundamental importance of the rule of law – applied to all citizens, whatever their position in the community, and without fear or favour – administered by an independent judiciary and combined with an open and accessible justice system. Your presence here this morning is therefore significant, towards achieving a sound legal system for the country, the ceremony bringing together all those concerned with the law in one room, providing opportunities for valuable exchanges between all members of the legal fraternity.

CONGRATULATIONS

3. I would like to begin by announcing that His Majesty The Sultan and Yang Di Pertuan has consented to the appointment of a new Intermediate Court Judge. Judge Lailatul Zubaidah Binti Hj Mohd Hussain was sworn in on the 5th August 2017. She joins a young team of judges in the Intermediate Court who are all gaining exposure to more serious, more complicated cases with a view to prepare them for the challenges of sitting in the higher courts.
4. These appointments to the higher Bench will bring together a blend of diversity of talents and backgrounds with a shared commitment to excellence in the administration of justice in the Intermediate Courts.
5. I also wish to congratulate Magistrate Pg Shahyzul Khairuddien who was awarded the prestigious Chevening Scholarship to do an LLM in International Commercial Law at University College London in the United Kingdom. We are extremely proud of his achievement and look forward to his return in September this year.
6. We are also further strengthened by the appointment of 5 new Deputy Official Receivers who are tasked with administering the affairs of bankrupts. I wish them well in their assignment and remind them that as judicial officers, of the importance of conducting themselves with honesty and integrity in carrying out their duties.
7. Mr Zheng Onn also deserves a mention as the newly elected President of the Law Society. On behalf of the Judiciary, I offer my congratulation and best wishes for a fruitful term as President and express my appreciation and congratulations to Mr Hj Rozaiman for a job well done as former President of the Law Society.
8. Last but not least, I wish to express my gratitude and best wishes to Judge David John Leonard who has gone into retirement after many years on the Brunei bench as a Visiting Judge and a Judge of the Court of Appeal. He leaves

us with fond memories in and outside the courtroom, his collegiality and great service to the Bench having touched the lives of many.

9. Let me now turn to the customary review of the initiatives taken by the Courts over the preceding year.
10. In March 2017, the Brunei Judiciary hosted the 5th Council of ASEAN Chief Justices meeting (CACJ) and 39th ASEAN Law Association Meeting (ALA) at the Empire Hotel and Country Club.

CACJ MEETING

11. The CACJ Meeting was a resounding success, bringing delegates together to address high level policy matters affecting legal systems in the region, the sharing of best practices and assessing legal trends. In my Opening Address to the Meeting, I spoke of the need to remain committed to the vision for court excellence in all ASEAN Member States and reminded my counterparts of the obligations of Member States under the Boracay Accord 2015 by which ASEAN member states must maintain the momentum gained over the years in building partnerships and enhancing cooperation by way of continued commitment to cooperation and sharing of information and remaining relevant.
12. I want to reiterate this message today and say that this should not be just an international vision to be achieved but also a vision that should be kept within sight in the national legal framework. It is important that the stakeholders in the legal system fulfill their important roles in the legal system for the legal system to thrive.

ALA MEETING

13. The ALA Meeting was attended by the representatives of the National Committees of all 10 member countries. I am happy to say it was a fruitful meeting at which the reports of ALA's 2 principal Working Groups – 'Harmonization of laws' and 'ALA at the Crossroads' were approved for submission to the ASEAN Secretariat and the ASEAN Ministerial Agencies.

14. The ASEAN Law Association being the ASEAN Charter's exclusive civil society affiliate for law and think tank, it was a pleasure and a privilege to host the meeting successfully.
15. On that point, I wish to convey my heartfelt gratitude to my officers and staff along with officers and staff of the State Judicial Department, the Attorney General's Chambers, the Law Society and all those involved who worked tirelessly, around the clock to make sure that the event ran smoothly, Syukur Alhamdulillah.

MEDIATION

16. As part of Brunei's commitment to the harmonization of laws across ASEAN Member states, the Courts have recognized that effective dispute settlement mechanisms are a vital component of an economic community and this includes Alternative Dispute Resolution (ADR). At the ALA Meeting, I expressed the view that ADR has the potential to save time and resources when properly administered and provides a variety of benefits as an alternative to traditional litigation, such as greater satisfaction to the disputing parties, producing innovative methods of resolving disputes and achieving greater efficiency in reaching settlements.
17. To this end, I am happy to announce that 7 of my judicial officers have completed a training course in Mediation and have been certified as Accredited Mediators by the Singapore Mediation Centre. My congratulations go to Judge Muhammad Faisal, Deputy Chief Registrar Radin Safiee, Senior Registrar Hajah Hazarena, Senior Magistrate Azrimah, Magistrate Pg Shahyzul Khairuddien, Magistrate Hajah Nor Amalina and Magistrate Hajah Ervy Sufitriana on their achievements. I have no doubt that their judicial skills will be further enhanced and strengthened by this training and look forward to more cases settling before trial.

I-READY OFFICERS

18. Since last year, the Court has benefitted from the services provided by apprentices of the I-Ready Apprenticeship Programme across various sections of the Court. For those who are not familiar with the I-Ready Apprenticeship Programme, it is a programme launched by His Majesty the Sultan and Yang Di Pertuan at the opening of the 13th Legislative Council in 2017, which seeks to increase the marketability and employability of unemployed graduates through a 3 year placement as an apprentice in participating organizations.
19. I am informed that there are 14 I-ready officers attached to the Court comprising of Judicial Law Officers, Accounts Officers, System Analysts and Statisticians. I wish them the best of luck with their placements and hope that they too, benefit fully from their time in the Judiciary.

EODB RANKING AND JCMS

20. I now turn to the Ease of Doing Business Report 2018 which is significant, due to the extensive involvement of a select team of judicial officers in identifying areas requiring reform efforts and improved regulation within the Judiciary to advance Brunei's distance to frontier (DTF) score.

The Report, released in November 2017 announced a rise in Brunei's ranking from 72 to 56 out of 190 economies, recording the largest improvement of all economies measured by the distance to frontier (DTF) score for the second consecutive year.

21. In this Report, the largest improvements identified included an improvement in the area of Enforcing Contracts, having improved 32 places taking Brunei to a World Bank ranking of 61 as a result of Enhancements in an Online Management System through the introduction of an Electronic Case Management System for use by judges and lawyers.
22. At this juncture, I wish to record my appreciation and congratulations to my officers involved in assisting the Ease of Doing Business (EODB) Steering Committee whose hard work and tireless efforts have contributed to the rise in ranking.

23. As far as the Electronic Case Management System is concerned, I am happy to report that it remains an electronic case management system that supports case management within the courts. Harnessing the power of technology has allowed us to reap great efficiencies in the saving of time and costs for all stakeholders.
24. So far, much of our attention has been focused on technology leading up to trial. There is much room for implementation of technology within the courtroom beyond our present video conferencing facilities and use of the Judicial Case Management System to retrieve documents from electronic case files. The next point of emphasis should then explore how we can further harness technology to facilitate advocacy from various perspectives, for example hearing remand and bail applications from the Prisons.
25. Instead of ferrying inmates to and from court, a network link should be established between the Court, Prosecutors, Prisons and Defence Counsel so that inmates do not have to leave prison for court unless they absolutely have to.
26. As there are provisions in the Criminal Procedure Code that allow for such applications to be made in this manner, the Courts should look into introducing such initiatives.

LEGAL CLINIC

I now turn to the recent re-introduction of the Legal Clinic by the Law Society which offers free legal advice to the underserved and disadvantaged. I am informed that the Clinic will operate from the Small Claims Tribunal room in the Magistrates Court once a month. This initiative taken by the Law Society must be lauded as it strengthens access to justice. One of the major obstacles in accessing justice is the cost of legal advice and representation. Legal clinic programmes are therefore important, as a central component of strategies to enhance access to justice all over the world.

27. On that note, it is encouraging to read about the work of other non-governmental agencies who have also taken it upon themselves to organize legal clinics for the benefit of those who need such services. This response to the needs of the community is not only supportive of access to justice but is also a reflection of a deep commitment to fostering and developing a strong sense of community across society.
28. I wish to endorse my full support for these programmes and wish the coordinators and organizers continued success in their noble endeavours.

AMENITIES

29. The Courts are committed to providing quality service to court users across all sectors. One particular service is in relation to a cause I hold dear to my heart, the provision of food services! While we may not have an operational canteen in the High Court, I am happy to know that there is a canteen in the Law and Courts' Building where lawyers and members of the public can grab a tasty bite to eat while waiting for cases. I am also informed that a drinks vending machine has been installed for use by the general public.
30. These amenities may seem unimportant and insignificant, but in the whole scheme of things, they provide lawyers and members of the public a quick respite between cases without having to leave the court building.
31. I also wish to look into the provision of wifi services in all the courthouses as a step towards improving court facilities and the quality of service provided to court users. The installation of wifi facilities will help practitioners utilize time between cases more effectively by providing wireless access to email, legal reference material and suitable office networks. For witnesses, the availability of wifi services will mean ready access to work and business pursuits in between court hearings. Wifi will also enable court reporters to be able to file their copy back to HQ in the event of major trials in the public interest.

32. As with most things however, installing wifi will require a plea for resources, ie money, to the administration. And so while it may be some time before the objective is realized, it will be placed as a priority of goals to be achieved, hopefully sooner rather than later.

CLOSING

33. I do not wish to bore everyone with a speech longer than it has to be and so I will bring my speech to a close by reminding all those concerned with the law about the importance of upholding the rule of law. The rule of law stands for the upholding of individual rights and freedoms while balancing them against society's need to maintain law and order.
34. When a fair and efficient legal system is established, the Courts earn the trust of the people to hear their cases impartially, with justice accessible to all. Businesses will benefit from a stable environment where commerce is governed by transparent rules, contracts are enforced and investments are protected.
35. In inheriting a common law legal system which enshrines the principles of the rule of law and an independent bar and judiciary, we work towards a legal system based on the rule of law which, and I quote from the 'Human Rights In the Administration of Justice; A Manual on Human Rights for Judges, Prosecutors and Lawyers, Chapter 4, **'would not be possible without independent lawyers who are able to pursue their work freely and without fear of reprisals. Indeed, independent lawyers play a key role in defending human rights and fundamental freedoms at all times, a role which, together with that played by independent and impartial judges and prosecutors, is indispensable for ensuring that the rule of law prevails, and that individual rights are protected effectively.'**
36. And so, I must urge the legal profession to hold itself to high standards and norms and to have a 'social conscience'. I also remind the legal profession as a whole to hold true to honesty and integrity in carrying out their responsibilities as judges, prosecutors and private practitioners.

37. The focus on court and service excellence must be maintained and we must never stop seeking ways to improve our court processes to further enhance the quality of justice we administer.
38. Before I invite the Hon Attorney General to deliver her speech, I would like to thank all those involved in organizing this year's ceremony in particular the Chief Registrar, Officers and Staff of the Judiciary. I am also grateful to the Commissioner of Police and the Royal Brunei Police Force for making available the guard of honour but unfortunately the inspection has to be cancelled because of the heavy rain.
39. I must not forget to thank the Prime Minister's Office and the State Judiciary Department for their continuous support and cooperation in ensuring the efficient running of the Courts, to the Prisons Department in ensuring the prompt attendance of prisoners to Court and the High Commissions and Embassies who have supported us with the provision of interpreters for court matters.
40. As we look forward to a challenging year, allow me, on behalf of the Judiciary wish each and every one of you a happy, healthy and fulfilling New Year.

Walaikumsalam Warahmatullahi Wabarakatuh

