

OPENING OF THE LEGAL YEAR 2020.

SPEECH BY THE PRESIDENT OF THE LAW SOCIETY.

My Lord Chief Justice,

Yang Berhormat Pehin Orang Kaya Laila Setia Bakti Diraja Dato Laila Utama Haji Awang Isa, Special Adviser to His Majesty and Minister at the Prime Minister's Office.

Yang Berhormat Dato Seri Setia Haji Abdul Mokti Bin Haji Mohd Daud, Minister at the Prime Minister's Office

Esteemed members of the judiciary, Chief Judge of the Syariah Court, The Honourable Attorney General, fellow counsel and colleagues of the legal profession, distinguished guests, ladies and gentlemen, assalamualaikum and good morning.

I wish also to extend a warm welcome in particular to our overseas guests:

- 1) Dato' Abdul Fareed, President of the Malaysian Bar; and
- 3) Mr Amirli Nassir, Vice President of the Hong Kong Law Society.

We are thankful for the blessings of Allah subhanahu wata'ala for being able to come together on this occasion to mark the opening of this legal year 2020.

On behalf of the Law Society, I wish to congratulate the appointments of Justice Edward Timothy Starbuck Woolley and Justice Kannan Ramesh as Judicial Commissioners. Justice Woolley was previously Chief Registrar and Justice Ramesh, is a sitting judge of the Supreme Court of Singapore. Their

experience and ability will no doubt strengthen the bench and the cause of justice here in Brunei.

The Law Society wishes also to congratulate the appointment Nur Eleana binti Dato Paduka Hj Hairol Arni as Registrar of the High Court and and Mohammad Marzuqi bin Sabtu as Magistrate.

As My Lord may well recall, this is not the first time that I have had the honour of making this address, my first speech at this ceremony as President of the Law Society was a decade ago, in 2010. The time has passed in a blink of an eye. While I will assure My Lord that I have not recycled my speech from 10 years ago- I do find that some familiar themes- as of necessity at this occasion- will be revisited.

I would address 3 main topics this morning: - Continuity, Challenges and the Rule of Law.

Continuity.

I am honoured and thankful to my fellow counsel and colleagues in the profession for giving me this opportunity to say a few words on their behalves today.

We held elections at the end of last year and welcomed to the Council of the Law Society Dk Nadeeya Binti Pg Hj Mohd Salleh and Ms Vanessa On. We welcomed back to Council past president Hj Muhammad Zainidi Bin Haji Abdul Hamid. Ms Veronica Rajakanu stayed on as statutory member appointed by the council as did Hjh Nor Hashimah Hj Mohd Taib statutory member appointed by the Honourable Attorney General.

The other office bearers on the Council are Vice President Hj Mohamad Rozaiman Dato Abdul Rahman. Secretary, Hj Mansur Bin DP Dr Hj Abdul Latif and Treasurer Hj Ahmad Basuni Hj Abbas.

I wish to thank all members of the Law Society Council both past and present for their service to the Law Society. The position calls for much time spent outside an already demanding professional practice and presents a further sacrifice of personal and family time. In particular I wish to commend the immediate past president Mr On Hung Zheng for the energy and commitment that he put into his 2 years as President.

As Your Lordship stated in last years speech- that “incremental reforms would be undertaken to improve the quality of justice...there is no need to reinvent the wheel”, the Law Society will similarly, for the years 2020/2021 seek to build on what has gone before and to make what incremental changes it can to improve things, without seeking to re-think our purpose or mission or how we will go about doing things.

In terms of last year’s activities, the Law Society continued to offer access to the law for society’s less privileged at a monthly free legal advice clinic. The clinic offers legal advice to members of the public who in order to be eligible need to show Brunei residence, and must produce documentary evidence of a monthly income of less than BND1,500.00. Eligible members of the public must also not have been previously represented by any legal firm prior to seeking advice from the Clinic.

Since being reestablished in 2018, the Clinic has provided advice to 62 members of public, addressing a wide range of enquiries, from bankruptcy

matters, to defamation claims, family and sharia and criminal law advice. 42% of the attendees were women.

We are grateful to the Judiciary for allowing us to conduct the legal advice clinic from the Law and Courts Building in Bandar Seri Begawan and the Courts Building in Kuala Belait.

The Law Society has expanded the scope of this private legal aid by the establishment of a fund, with approval from the Ministry of Home Affairs, to pay some costs for representation in certain criminal and family matters. Applicants will need to satisfy the same requirements as the legal aid clinic. It is envisaged that for the time being volunteer members of the legal profession will be able to provide mitigation and negotiation services to applicants in criminal matters. This is a start, and the hope is that in addition to improving access to justice it would also provide young lawyers with an opportunity to develop and hone advocacy skills, without necessarily having to undertake work gratis at the expense of their employers. It is hoped that funding will be derived from donations from law firms, individuals and companies.

Last year, in furtherance of our commitment to continuing legal education, the Law Society, with assistance from the Continuing Legal Education arm of the Singapore Law Society put on an advocacy skills work shop with trainers made up of senior counsel from Singapore, QC from Australia and South Africa. The 2-day course was preceded by a trainer's course so that senior members of the bar here could be armed with the tools and skill to conduct our own advocacy skills clinics. I am pleased to inform Your Lordship

that 5 members of the bar have undertaken the trainer's course on advocacy skills.

The advocacy skills work shop was attended by counsel from private firms and the Attorney Generals' Chambers, with law students from UNISSA gaining useful insight and exposure by providing role play. We are again grateful to the courts for providing the use of the court buildings to run this clinic. It is a testament to the good working relationship that we have between the Judiciary, the Attorney Generals Chambers, the Law Society and UNISSA that everyone could work together with the common aim of improving the quality and standards of advocacy. We believe that sound and responsible advocacy can assist the courts to achieve just results in the most efficient manner possible. This can only advance and strengthen the Rule of Law.

In terms of our regulatory function, as raised by the Honorable Attorney General in his speech last year, the Law Society has proposed some amendments to the Law Society Order in relation to disciplinary procedures. While we are conscious that the process must safe guard the interests of the profession while balancing it with the public interests, the general consensus was that the procedure has too many steps and for a small community such as ours, finding sufficient persons to be involved in the process without giving rise to conflict of interest is difficult. We believe that the proposed amendments will continue to safeguard the interests of the profession as well to encourage the trust of the public.

At last year's General Meeting, the Society passed a motion to allow the council to look into the establishment of rules for compulsory professional

indemnity insurance. This is similar to what is practiced in other jurisdictions and in other professions locally. We believe that it is good for the profession to have this in place and serves as a measure of public protection.

CHALLENGES.

In 2019, there were 26 petitions filed for the admission to the Brunei Bar. To date this number represents the largest number of admissions to the Bar in any single year. As of September 2019, there were 129 annual practicing certificates issued. If all of those called to the Bar were to join the profession, by applying for an annual practicing certificate, we would have an increase in numbers of roughly 20%.

The clear challenge therefore is to be able to find sufficient work for the numbers of young lawyers entering the profession, giving them a sustainable and long-term livelihood.

It should be noted that many applicants for call have been educated in some of the highest-ranking universities in the world. It is not therefore a lack of talent that is a challenge, but a need now to expand the opportunities for growth.

We have to admit that in today's challenging economy finding room for such growth is difficult. The legal profession is essentially engaged in providing services to business and industry, if the level of economic activity is low, then it affects the ability of the profession to also grow and create employment opportunities.

I echo the calls of previous Presidents to suggest that when budgets are being finalized in the months to come at various GLC's and statutory bodies,

that spending on legal services come with the consideration of how that spending will or will not have any impact in the local market and in the growth of local experience and skills.

The growth of automation, technology and artificial intelligence may mean that professional time will be freed up from more mundane tasks. These will conversely put pressure on our members to provide services in shorter time frames and at lower costs. The expectation will therefore be for the profession to provide a higher quality of analysis and thought. Our challenge looking forward is to equip members of the Law Society with the tools necessary to be able to remain relevant in this ever-changing world.

Looking towards the new decade, I personally expect that these challenging conditions will continue, our profession like many others will need to confront these challenges, and seek to adapt in order to progress.

THE RULE OF LAW.

It is our good fortune that we live and work in a safe, secure and stable environment. For this we are forever grateful for the wise and benevolent leadership of the His Majesty the Sultan and Yang Di Pertuan of Brunei Darussalam.

We are in no doubt that a strong commitment to the rule of law contributes to this safety and security.

The Law Society aligns itself with the principles underpinning the Rule of Law :- strong and independent institutions, the integrity of due process, rules that are clear and easily understood, equality before the law, the absence of arbitrary administrative actions. In all of these respects we are thankful to all

that are present here that we continue to live and work under these conditions.

Under these conditions, we can all go about our day to day business without fear and in safety, businesses can thrive when contracts clear and easily enforced, investments in the future can be made confidently and in the long term.

It is our fervent hope that these will continue in order that all members of society can be allowed to grow and develop, to nurture themselves and their families for the future.

There is one aspect that I would touch on in this context and it is in the role of the legal profession to be able to speak up and to speak freely for all and especially for those without ability to be heard, whether they are from a minority or as a result of having less means. While the members of the Law Society are aware of their important role in this and how it may foster and encourage the Rule of Law, we also recognize it is a special privilege to be able to speak freely in the courts and we recognize the need to exercise such privilege with responsibility and integrity and to earn and strive for public trust and confidence.

To this end, and in the wider cause of the advancement of the rule of law, we look forward to working in the coming year with the Judiciary and the Courts and the Attorney Generals Chambers in this important and testing function with the ultimate aim of bringing a benefit to the community that we all serve.

The Law Society will also seek to continue to support the aims and aspirations of the Government of His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam.

I Thank My Lord Chief Justice, the Chief Registrar and all parties involved for organizing today's ceremony. I wish My Lord Chief Justice the members of the judiciary, the Attorney Generals Chambers and the Profession a safe and productive year ahead.

Pg Izad-Ryan PLKDR
Pg Hj Bahrin.

President Law Society.

