

**SPEECH BY**

**THE HONOURABLE CHIEF JUSTICE  
DATO SERI PADUKA STEVEN CHONG**

**OPENING OF THE LEGAL YEAR 2022**

**THURSDAY, 31 MARCH 2022**

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,

Honourable Attorney General,

Yang Amat Arif Chief Syarie Judge,

President of the Law Society,

Members of the Bar,

Distinguished Guests,

Ladies and Gentlemen,

## **I. INTRODUCTION**

1. Good morning and on behalf of the Judiciary, I am pleased to welcome you to the Opening of the Legal Year 2022. The Opening of this Legal Year is historic in that it marks the first time we are conducting the ceremony online and I am grateful that everyone is able to join us for today's proceedings through video conference.
2. This transition online is a reflection of how COVID-19 has changed the way we live and work, and the justice system is no exception. Over the past year, the challenges posed by the second and third waves of

COVID-19 have required us to adapt and re-examine how we administer and deliver justice. Technology has helped us immensely in this respect and I must acknowledge the efforts of the Judiciary, the Attorney-General's Chambers (AGC) and the Bar in working together to ensure that our justice system remains open and functional during these times.

3. Before I turn to address our key developments in the past year, please allow me to recount the changes affecting the bench and the legal profession.
4. Firstly in May 2021, we welcomed the appointment of Muhammed Faisal bin Pehin Datu Juragan Laila Diraja Colonel (Rtd) Dato Seri Pahlawan Haji Kefli as Judicial Commissioner of the Supreme Court, Radin Safiee bin Radin Mas Basiuni and Pengiran Masni binti Pengiran Haji Bahar as Judges of the Intermediate Court, Dayangku Hajah Norismayanti binti Pengiran Haji Ismail as Chief Magistrate of the Subordinate Courts and Dayang Hajah Hazarena binti Pehin Orang Kaya Setia Jaya Dato Paduka Haji Hurairah as Deputy Chief Registrar of the Supreme Court.
5. In July 2021, we saw the appointments of four senior judicial officers who were confirmed in their respective positions as Senior Registrars of the Supreme Court and Senior Magistrates of the Subordinate Courts. And in September 2021, we retained the expertise of our international judges and extended the appointments of Judicial Commissioner Edward Timothy Starbuck Woolley and Judicial Commissioner Kannan Ramesh for another two years.

6. I extend my heartiest congratulations to my colleagues on their respective appointments and extensions. Both local and international appointments bring with them a wealth of experience and these developments will provide continuity to the Judiciary and strengthens our senior bench.
  
7. I also congratulate Mr. Haji Mansur bin Dato Paduka Dr Hj Latif on his election as President of the Law Society and we look forward to working closely with him and the Law Society in strengthening the relationship between the Bench and the Bar. Mr. Haji Mansur succeeds Mr. Pengiran Izad Ryan bin Pengiran Laila Kanun Di Raja Pengiran Hj Bahrin who has made valuable contributions to the legal fraternity through the introduction of rules for professional indemnity insurance and through his involvement in developing the legal profession framework for pupillage. I extend our appreciation to Mr. Pengiran Izad for the service he has rendered to the profession.

## **II. THE PAST YEAR**

8. Please allow me to outline the Courts' key developments and work done over the course of the past year.

### Judicial Response to COVID-19

9. As part of the response to COVID-19, the Judiciary took a number of steps to overcome the challenges in carrying out the vital work of administering justice both online and in person. In March 2021, we remodelled our court rooms and registry counters in our High Court and in all district courts by installing plexi-glass shields in order to ensure the health and safety of all those attending court. Amendments were

also made to our legislation in May 2021 to allow for the conduct of hearings online in the Supreme Court, Intermediate Courts and Subordinate Courts. And in June 2021, the Court of Appeal conducted their first criminal appeal via Zoom where they heard submissions from Queen's Counsel and Senior Counsel attending remotely from England and Singapore.

10. However, as the second wave of COVID-19 and partial lockdown came upon us in August 2021, the Judiciary re-implemented its business continuity measures and where possible, we transitioned to having matters heard online. It is essential that justice proceeds and our courts have continued to function and we continue to conduct as many court proceedings as possible remotely in order to facilitate the efficient and expeditious processing of cases. In February 2022, the High Court begun its first visiting judge session online with Judicial Commissioner Woolley presiding from Australia via Zoom conducting both civil and criminal proceedings. Counsel and parties have also attended these proceedings remotely in Brunei and from various locations abroad, such as Canada, India, Malaysia and Singapore.

11. Technology has aided us greatly in keeping our courts running and we have for the most part, heard matters in all levels of court and provided court services online through Zoom. Again, I must thank the AGC and the Bar for their support and I am pleased that court users and stakeholders have adapted well to the transition online. We will continue to capitalise on the greater use of technology to administer justice efficiently and are committed to ensuring that technology enables safe and effective access to justice.

## Statistics

12. Moving on to statistics, in the 12-month period ending December 2021, the number of cases filed in the Court of Appeal and High Court fell compared to the previous year, as did new cases in the Intermediate Court and Subordinate Courts. Similarly, applications for civil marriages through the Marriage Registry and letters of administration through the Probate Registry also fell compared to those in 2020.
13. In ensuring the efficiency of court performance, the Judiciary closely monitors clearance rates as an indicator of whether the court is experiencing a backlog in cases. From January to December 2021, the clearance rates for civil suits in the High Court was at 64% whereas civil suits in the Magistrates Court had a clearance rate of 70%. As for matters in the Intermediate Court, criminal trials had a clearance rate of 63% whereas commercial and civil matters were cleared at a rate of 65% and 77% respectively.
14. Another key performance indicator that the Court monitors is the time taken for the delivery of judgments by judges and judicial officers. I am pleased to report that our statistics have shown that 66% of judgments at all levels of court were delivered between 1 to 3 months from the close of submissions.
15. On to the Official Receiver's Chambers, I am pleased to report that from January to December 2021, payments of composition and dividends have been declared in 443 cases totalling \$19,918,901.46 with a total of 146 rescission orders granted. However, new filings for

winding up and bankruptcy petitions received by the Official Receiver's Chambers fell by nearly a third.

16. These statistics reflect our best efforts in coping with the demands arising from the pandemic. During this time, the Courts were undoubtedly affected by the second wave of COVID-19 which resulted in the vacation of hearings, save those that were essential and urgent. However, cases were re-fixed and heard online or in person once restrictions were eased and these cases are steadily being disposed of, with backlogs being cleared. I am deeply grateful to all those who work in, with and around the courts for their adaptability, resilience and commitment to the cause of justice and in providing key services and handling the flow of cases with diligence, effort and care in spite of the challenges posed by COVID-19.

### Mediation

17. As for cases referred to mediation, a total of 13 suitable cases were invited to mediate with the courts, and from these, 5 cases were successfully settled by consent. However, due to the constraints posed by COVID-19, 5 cases are still pending to be heard before Court mediators.
18. The Judiciary is aware of the growing need to put in place effective and timely dispute resolution mechanisms and has worked to develop frameworks for the greater use of mediation. In this regard, we introduced Practice Direction No.1 of 2021 on the use of alternative dispute resolution for matters involving family law disputes which took effect from December 2021.

19. The introduction of the Practice Direction aims to strengthen the court's powers in the resolution of matrimonial disputes and introduces a new 'judge-led' approach that empowers the court to direct parties to mediation. The Practice Direction requires that as part of divorce proceedings, couples with at least one child below 18 years of age must undergo mandatory court annexed mediation. It is hoped that mediation will better assist families in reducing the emotional burden, time and cost of resolving their disputes.

### International Relations

20. In the international sphere, we have continued to engage actively and advanced judicial cooperation with our counterparts overseas. In July 2021, we successfully hosted the 6th Joint Judicial Conference (JJC) between Brunei Darussalam, Malaysia and Singapore. The biennial conference convened online for the first time since its inception and was attended by the Chief Justices of Brunei, Malaysia and Singapore with judges and judicial officers from their respective judiciaries. The conference serves as a platform to reaffirm the long-standing friendship and cooperation that exists between our three countries and promotes the discussion of judicial and legal issues of common interest among us.

21. Over the course of the year, we also participated in various virtual events, including:

- i. the International Framework for Court Excellence (IFCE) Train-the-Trainer Workshop conducted by the State Courts of Singapore in which our judges and court administrators were guided on the

- journey to court excellence and the approaches taken to evaluate court performance;
- ii. the 9th Council of ASEAN Chief Justices (CACJ) meeting where we continued to strengthen our partnerships with fellow ASEAN Judiciaries;
  - iii. the Maritime Silk Road (Quanzhou) International Forum on Judicial Cooperation in which we affirmed our commitment to deepen judicial cooperation with the Supreme People's Court of the People's Republic of China and the Belt and Road initiative;
  - iv. the Temasek Foundation-Singapore Management University Mediation and Dispute Resolution Programme in Asia, organised by the Singapore International Dispute Resolution Academy (SIDRA), in which we wish to thank the Australian High Commission and Professor Nadja Alexander, Academic Director of SIDRA for supporting our commitment to encourage the use of mediation and alternative dispute resolution in settling disputes; and
  - v. the 7th Judicial Seminar on Commercial Litigation where the Judiciaries of the Hong Kong Special Administrative Region, New South Wales and Singapore invited the Judiciaries of Australia, Brunei Darussalam, China, India, Japan, Malaysia, New Zealand and South Korea to join the closed-door seminar covering issues of substantive commercial law as well as challenges pertaining to case and court management.

22. In November 2021 and February 2022, we collaborated with the British High Commission to organise a virtual seminar series delivered by experts from the UK Slynn Foundation. Seminars on judgment writing, the legal profession and the Sentencing Council in England and Wales were delivered by distinguished speakers, namely The

Honourable Mrs Justice Maura McGowan DBE, judge of the High Court of England and Wales, Mr Nicholas Vineall, QC, Chair of the Bar Council's Education and Training Committee and Lord Justice Holroyde as Chairman of the Sentencing Council for England and Wales. The series brought together members of the legal fraternities from Brunei Darussalam and the United Kingdom and in keeping with the close relationship we enjoy with our British counterparts, we reaffirmed our shared commitment to promote capacity building and advance our cooperation in judicial education and training across our legal systems.

#### Developments in Tutong Court

23. I turn now to developments in the Tutong District Court where with effect from January 2022, one Intermediate Court Judge and one Senior Magistrate are to preside over cases in the district court full time. The permanent presence of judges and judicial officers at Tutong District Court marks a significant transition to ensure that there is access to justice across the country and we hope that this will offer court users and the community in Tutong more convenient access to judicial services and that cases can also be dealt with more expeditiously.

24. The Tutong District Court is strengthened by the able and dedicated senior team comprising of Intermediate Court Judge Pg Masni binti Pg Hj Bahar and Senior Magistrate Pg Hazirah binti Pg Mohd Yusof. I commend them both for their work in providing a gateway to the justice system for the residents of Tutong District and I am confident that the Tutong District Court will continue to do well during their tenure.

## Pupillage Framework

25. During last year's Opening of the Legal Year, I urged the Judiciary, the AGC and the Law Society to work together and form a committee to develop a comprehensive framework for the training of pupils. On this note, I am pleased to report that the pupillage framework is on its final draft and I would like to express my sincere appreciation to the Chief Registrar as the committee chair and the committee members from the Judiciary, the AGC and the Law Society for their invaluable contribution to the discussions. Indeed, pupillage is the gateway into the legal profession and we must ensure the professional competence of our aspiring lawyers. It is hoped that the framework will ensure that pupils will possess the quality, consistency, and rigour to equip themselves with skills to succeed in the legal practice.

### **III. LOOKING AHEAD**

#### Transcription System

26. The Judiciary hopes to continue to leverage technology and build on our experience to continuously improve the administration of justice and deliver an effective and efficient justice system. On this note, I would encourage the State Judiciary Department and the Courts to collaborate with interested developers to provide a system that transcribes speech into text in real time for use in court.

27. A transcription system will allow oral evidence and court proceedings to be transcribed instantly, providing judges, and counsel access to transcripts in real time. It is our hope that this will not only

improve productivity for court staff but also enable cases to be conducted in a more expeditious manner. Harnessing such technology will also allow for more effective participation by parties involved, especially when questioning a witness on the stand and will benefit all parties to court proceedings.

### Code of Practice for the Conduct of Criminal Proceedings

28. In last year's speech, I encouraged the AGC and the Law Society to consider working together to prepare a Code of Practice for the Conduct of Criminal Proceedings by the Prosecution and the Defence to ensure due process and fair outcomes. To date, no progress has been made in this respect and therefore I must ask the Chief Registrar to assist in forming a committee comprising of members from the Judiciary, the AGC and the Law Society to develop the Code of Practice.

29. It is my hope that the Code of Practice will help us to further improve access to justice and streamline our criminal procedure and processes. I must reiterate that it is important that we continue to review and improve our criminal justice system in order to secure fairness and to better serve the needs of our society. The Courts cannot carry the burden of administering justice alone and the Prosecution and the Bar each have their duties and responsibilities in upholding the integrity of our justice system.

### Pro Bono

30. Following on from this, I must highlight the pro bono work done by members of the Law Society and express my sincere appreciation to all those who have undertaken such work in the past year. Your contribution is essential to the cause of justice and is both commendable and inspiring. On behalf of the Judiciary, please accept our heartfelt thanks for your commitment to ensuring that justice remains accessible to all. I hope to see more members of the Bar continue to undertake such efforts to provide representation and assistance to those in need, without expectation or remuneration, for the public good.

#### **IV. APPRECIATION**

31. Please allow me close by thanking the Prime Minister's Office, the State Judiciary Department and the entire legal fraternity for supporting the essential work of administering justice during such trying times. I am also honoured and privileged to thank all of the judges, judicial officers and staff throughout the Judiciary for their service. There is plenty of work to be done and I call upon the Courts, the AGC and the Bar to continue working together in a collaborative spirit to uphold a fair and efficient justice system for all.

32. I would also like to express my appreciation to the Chief Registrar and members of the organizing committee for the Opening of the Legal Year for their hard work and efforts in organising these historic proceedings online and in person in spite of the challenges of COVID-19. Thank you all very much for attending these proceedings and my best wishes and good health to you all for the year ahead.