

SPEECH BY

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

OPENING OF THE LEGAL YEAR 2024

THURSDAY, 1 FEBRUARY 2024

Yang Berhormat Pehin Orang Kaya Laila Setia Bakti Di-Raja Dato Laila Utama Haji Awang Isa bin Pehin Datu Perdana Manteri Dato Laila Utama Haji Awang Ibrahim, Special Adviser to His Majesty The Sultan and Yang Di-Pertuan of Brunei Darussalam and The Minister in the Prime Minister's Office,

The Honourable Attorney General,

Yang Amat Arif/Yang Berhormat Chief Syarie Judge,

President of the Law Society,

Members of the Bar,

Distinguished Guests,

Ladies and Gentlemen,

I. INTRODUCTION

1. On behalf of the Judiciary, I am pleased to welcome you to the Opening of the Legal Year 2024. Thank you for taking the time to join us this morning and it is a pleasure to have guests from Malaysia and Singapore here today with us as well. As 2023 drew to a close, we witnessed a rapidly changing and uncertain world, from technological advancements to international conflicts. Against this backdrop, I would like to emphasize the importance of a well-functioning justice system for society, not only in terms of economic growth but also for the community as a whole. A well-functioning justice system is one that helps individuals and families to move on and build a positive future, it includes a criminal justice system that

deters people from committing crimes and is one that helps businesses move forward and function with more stability and certainty in dealing with their disputes.

2. The work of the courts underpins the everyday lives of those in our community and while there are obvious challenges and demands to be faced in carrying out this work, I am steadfast in my belief that our Judiciary's biggest asset is our people. It is our people who keep the courts running and who are dedicated and tireless in their efforts to serve the public in order to meet the needs of the community. However, it is important to recognise that we do not work alone in safeguarding our community and that private practitioners, government counsel, enforcement agencies all form part of the larger picture of our justice system. We have a shared responsibility to uphold the rule of law and it is in this spirit that the legal fraternity gathers here today.
3. Before I address our key developments over the last year, I would like to recount some welcome additions and changes to our Bench and the legal profession.
4. Firstly, I would like to extend a warm welcome to The Right Honourable Sir Peter Gross who was appointed and sworn in as a Judicial Commissioner to our Court of Appeal in October 2023. Sir Peter Gross is a leading international commercial judge with a legal career spanning over 40 years. He brings a wealth of experience and his appointment will strengthen the breadth and depth of the Bench. Secondly, I extend my congratulations to our new cohort of five judicial officers who joined us last year. I welcome them all to the Bench and look forward to seeing them in their new roles as magistrates and registrars. Both of these appointments give me optimism and confidence in helping to expedite the disposal of criminal and civil cases and reducing backlogs, while ensuring that we maintain our standards and deliver quality justice.
5. I also wish to congratulate the five senior members of our Judiciary on their appointment as Judge Advocates to the Judge Advocates General (JAG). It is my hope that these additional appointments will further strengthen the Bench with a broad and varied range of judicial experiences and skills.

6. Next, I extend my deepest appreciation to Justice Michael Peter Burrell on ending his term as President of the Court of Appeal. I am grateful for his contribution to the Court of Appeal during his time as President and welcome his extension of service where he will continue to sit in the Court of Appeal as a Justice of Appeal. I would also like to extend my appreciation to Justice Kannan Ramesh who completed his term as a Judicial Commissioner of the Supreme Court in October 2023. It has been a pleasure to work with Justice Ramesh over the last four years and we are grateful for his invaluable contribution to our Judiciary. His successful tenure left an indelible mark on us and set a high standard for our judges and judicial officers to follow.
7. I wish also to thank Judicial Commissioner Haji Abdullah Soefri bin Pehin Orang Kaya Saiful Mulok Dato Seri Paduka Haji Abidin on ending his term as Chief Registrar of the Supreme Court. I am grateful for his numerous contributions and distinguished service in his capacity as Chief Registrar. His leadership was instrumental to the implementation of many key reforms in the Judiciary and I am delighted that he will continue his service with us as Judicial Commissioner.
8. Lastly, I would like to congratulate Ms. Nur Azizah binti Dato Seri Paduka Hj Ahmad and Mr. On Hung Zheng on being elected as President and Vice President of the Law Society. I look forward to working with you both to strengthen relations between the Bench and the Bar and I extend my best wishes to you.

II. THE PAST YEAR

9. I will now give an account of our progress in the past year and begin with a brief overview of our court's statistics.

Statistics

10. The Magistrates' Courts serves as a court of first instance in criminal and civil matters within the scope of its jurisdiction and is the main entry point for many proceedings in the country. In measuring its performance, we can gauge the court's

efficiency in disposing of cases across all four districts. I am pleased to report that for the 12-month period ending in December 2023, the clearance rate of criminal matters in the Magistrates' Courts stands at 80% whereas the clearance rate for civil matters stands at 83%, marking an improvement from the previous year's rates of 77% and 63%, respectively. In terms of time taken for the delivery of judgments in the Magistrates' Courts, data has shown that 91.8% of judgments for criminal matters and 80% of judgments for civil matters were delivered within our target of between 1 to 3 months from the close of submissions.

11. The number of civil and commercial cases filed in the Court of Appeal, High Court, Intermediate Court and Magistrates' Courts have continued on an upward trend since 2022, again signalling a positive return for civil and commercial litigation post COVID-19. Similarly, the number of receiving orders and adjudication orders filed have continued to rise with 316 receiving orders and 129 adjudication orders filed in 2023. I am pleased to report that in 2023, payments of composition and dividends have been declared in 545 cases totalling \$18,405,340.58 and that with effect from January 2024, the Official Receiver's Chambers will fully implement the payment of composition and dividends through online transactions. The Official Receiver's Chambers has also made initiatives to provide more resources online on the Judiciary website on bankruptcy processes and procedures and a step by step video on the stages on bankruptcy was also made available for members of the public.

12. The Probate Registry also had a busy and productive year with a marked increase in the number of applications received and granted. I am pleased to report that in 2023, a total of 737 applications were received for letters of administration with 780 applications granted, compared to the previous year where a total of 621 applications were received for letters of administration with 375 applications granted.

13. In 2023, we saw the number of applications for registration of marriages and divorce petitions drop. The number of criminal cases filed in Bandar Seri Begawan Magistrates' Court also saw a decrease from 454 in 2022 to 361 cases filed in

2023. Conversely, we found there to be slight increases in the number of criminal cases filed in the Tutong and Kuala Belait Magistrates' Courts.

14. Statistics have also shown that online hearings continue to be a feature of the courts where in 2023, a total of 1,065 proceedings were conducted online in the High Court, Intermediate Court and Magistrates' Courts. The Judiciary continues to encourage and support the use of online hearings in order to improve access to justice and progress cases more efficiently and effectively.

International Engagement

15. Over the course of last year, we continued our international collaboration through various initiatives and agreements with foreign courts. In February 2023, I called on The Lord Chief Justice of England and Wales, The Right Honourable The Lord Burnett of Maldon and The President of the Supreme Court of the United Kingdom, Lord Reed of Allermuir. Meetings were held with senior judges of the Judiciary of England and Wales and visits were also made to the Royal Courts of Justice, the Supreme Court of the United Kingdom, the Judicial Committee of the Privy Council (Privy Council) and the Central Criminal Court of England and Wales.

16. I am pleased to report that fruitful discussions were held on areas including judicial cooperation in continuing judicial education and training, best practices in commercial dispute resolution, developments in insolvency resolution processes and the modalities of appellate hearings now conducted online by the Privy Council, which is relevant to us as in Brunei Darussalam parties for civil cases are able to appeal to the Privy Council provided that both parties agree beforehand.

17. Our engagement with the Judiciary of England and Wales continued in September 2023 through the visit of The Right Honourable the Master of the Rolls and Head of Civil Justice in England and Wales, Sir Geoffrey Vos. He delivered lectures to the legal fraternity on 'Technology and Access to Justice: England and Wales' Revolution in Dispute Resolution and the Creation of the Digital Justice System' and on 'The Transformation of the Legal Profession through Generative Artificial

Intelligence (AI): Implications for Legal Service Delivery and Dispute Resolution, Including the Courts.'

18. In May 2023, we formalised judicial cooperation through the signing of a Memorandum of Cooperation with the Department of Justice of the Hong Kong Special Administrative Region of the People's Republic of China (Hong Kong SAR) to strengthen communication, collaboration and cooperation on issues relating to dispute avoidance and resolution. The signing of the MOC is a testament to the long history between Brunei Darussalam and Hong Kong SAR, where Hong Kong SAR has been a part of Brunei Darussalam's legal heritage for over 60 years. I called on the Secretary for Justice, Mr Paul Lam, SC of the Department of Justice and Chief Justice Andrew Cheung, Chief Justice of the Court of Final Appeal and held productive discussions on areas including case management, judicial training, the use of mediation, arbitration and developments on the use of technology in court.

19. In July 2023, a Memorandum of Understanding (MOU) was signed with the Supreme Court of Singapore which put in place an institutional framework for the continuation and strengthening of co-operation between our two Judiciaries. Building on from this, Brunei Darussalam and Singapore will hold annual consultations in furtherance of the MOU and a working group was established with judges and judicial officers from the two Judiciaries that will consult with myself and Chief Justice Sundaresh Menon as to the programme for judicial cooperation, which is to be developed with concrete deliverables and tangible areas of collaboration in mind.

20. In July 2023, I also called on The Right Honourable Tun Tengku Maimun binti Tuan Mat, Chief Justice of Malaysia for a bilateral discussion on judicial cooperation and made my first visit to the Palace of Justice in Putrajaya, Malaysia. The delegation and I had constructive meetings with members of the Malaysian Judiciary on areas of interest including the use of technology in court, transcription of proceedings and the use of mediation in the courts and we look forward to strengthening bilateral ties with our Malaysian counterparts in the years to come.

21. Regionally, we continue to engage actively amongst ASEAN counterparts and attended the 7th Joint Judicial Conference between the judiciaries of Brunei Darussalam, Malaysia and Singapore and the inaugural Council of ASEAN Chief Justices (CACJ) retreat. Both forums serve as a valuable platform for the long-standing friendship among our regional partners and we remain committed to strengthening such judicial cooperation.

III. LOOKING AHEAD

Legal Profession

22. On to the legal profession, I wish to mention the difficulty we have faced in getting practitioners to take on legal aid assignments for capital cases. Reasons for refusal given by counsel include fees being too low and their ongoing work commitments. While the Judiciary is aware of the various challenges of practice at the Bar, I stress the need for a change of mindset in the profession. It is a tremendously important and worthwhile undertaking when providing legal aid as a public service and legal aid assignments for capital cases supports the Judiciary's central priorities to ensure access to justice in assisting defendants who cannot afford legal representation. Following from this, I suggest that the Chief Registrar's office, Attorney General's Chambers and the Law Society form a committee to introduce a mandatory Continuing Professional Development (CPD) scheme where such assignments may count towards CPD points. There is a real need to incentivise legal aid programmes and while doing so, we can also encourage practitioners to achieve core competencies at different stages of their legal practice in order to maintain high professional standards.

Legal Profession Act

23. While on the topic of professional standards, I would like to emphasize the need for rules governing conduct in relation to fees and the professional duty to provide clients with information on fees. Lawyers have a duty to facilitate access to justice and charge clients fairly for work done and it is the lawyer's duty to furnish adequate information to clients such as:

- a. The basis on which fees will be charged and the manner fees are to be paid by clients;
- b. Informing clients of any other reasonably foreseeable charges;
- c. Providing clients with fee estimates;
- d. Ensuring actual fees charged do not vary substantially from estimate unless client is informed of change in circumstances; and
- e. Informing clients of the right to apply for review of fees by taxation of bill of costs.

24. To address this issue, I suggest the Chief Registrar's office to chair a committee comprising of members from the Attorney General's Chambers and the Law Society to look into enacting rules on adequate professional services in order to prescribe standards of client care. Ultimately, this is to protect members of the public by ensuring that lawyers are transparent with their clients with what their fees are likely to be and to explain the fees in a manner understood by their clients.

The Use of Artificial Intelligence

25. I turn now to discuss the use of generative artificial intelligence (AI) and the impact of the use of AI on the legal profession. This comes in response to the increasing adoption and use of AI such as ChatGPT and its ability to generate original content in response to user prompts. I encourage the Chief Registrar's office, Attorney General's Chambers and the Law Society to jointly study and consider the issues and concerns of the use of AI which will potentially transform how the legal profession works, particularly in areas such as contract review, legal research and drafting of legal documents. There is a need to ensure that AI is used responsibly and ethically so that legal professional standards of honesty and integrity can be upheld.

Fundamental principles

26. In a recent criminal appeal, the respondent made an application to the Court of Appeal for the judgment in the appeal to be delivered in camera. The Court of Appeal refused the application but ordered that there be no publication of the names of the victims or any particulars which might lead to the victims' identities.

Judges and Judicial Officers maintain the rule of law and administer civil and criminal justice according to the law. In so doing, Judges and Judicial Officers must bear in mind a number of fundamental principles such as judicial independence, impartiality, fairness, transparency and competence.

Members of the public can attend open court hearings in accordance with the principle of open justice. Judges and Judicial Officers sit in open court giving reasons for their decisions and are subject to review by a higher court. The work of the Judiciary is therefore open to public scrutiny and provide a form of accountability that is consistent with judicial independence.

The Judiciary adheres to these fundamental principles in striving to provide an efficient, effective, fair and accessible administration of justice. The respect of society for the law and public trust and confidence in the Judiciary go hand in hand when upholding the rule of law.

IV. IN MEMORIAM AND APPRECIATION

27. Before I conclude, I would like to pay tribute to our members of staff who passed on late last year. We mourn their passing and remember their many contributions to the Judiciary. We extend our deepest condolences to their families and loved ones and in honouring their memory, express our gratitude for their dedicated service.

28. Lastly, please allow me to convey my appreciation to the Acting Chief Registrar and the Opening of the Legal Year organizing committee for the preparations made for today. I also wish to thank the Prime Minister's Office, State Judiciary Department, Department of Adat Istiadat Negara, Department of Environment, Parks and Recreation and the Accident and Emergency Department of RIPAS

Hospital for their invaluable assistance and continued support. I am also grateful to the Commissioner of Police for the Guard of Honour Parade. Thank you very much for your attendance today and my best wishes and good health to you all for the year ahead.