

Speech

**YANG MULIA  
DATO PADUKA HAJI KIFRAWI  
BIN DATO PADUKA HAJI KIFLI  
OPENING OF LEGAL YEAR 2002  
THURSDAY, 30 MAY 2002**

Bismillahir Rahmanir Rahim,

Assalamualaikum Warahmatullahi Wabarakatuh,

My Lord, Judges of the Supreme Court,

The Honourable PEHIN DATO HAJI ISA BIN PEHIN DATO HAJI IBRAHIM, (his full Malay title: *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*)

Members of the Bar,

Distinguished guests,

Ladies and gentlemen,

It gives me great pleasure to address your Lordship for the first time on this auspicious occasion and I do hope I will have the pleasure of addressing your Lordship on similar occasions for many years to come.

We are thankful to Allah Subhanahu Wata'ala for His blessings in making it possible for us to once again be present at this ceremony this morning to observe a very important legal tradition in Brunei Darussalam and to renew our pledges of co-operation and mutual support in the dispensation of justice and the pursuit of the Rule of Law <sup>uphold</sup> for the interest of the Judiciary and the people of Brunei Darussalam.

At the outset, let me praise your Lordship and officers and staff of the Judiciary, in persevering for several months in the face of adversity caused by the breakdown of the air-conditioning system. We must be grateful to Your Lordship, for postponing

the Opening of the Legal Year so that we can enjoy today's ceremony under such pleasant conditions.

My Lord,

### New Legislation

It has become a tradition as part of this ceremony to mention to your Lordship, some of the new legislations enacted since the last Opening of the Legal Year. The past year again saw the introduction of numerous laws and amendments to existing legislations addressing various important matters. I would like to mention briefly on some of them.

Amendments were made to the Banking Act to prohibit the acceptance of deposits without licence. These amendments are intended to curb the activities of people engaging in get-rich-quick scams.

As part of the Government's effort to eliminate the evil influence of drugs in this country, the Misuse of Drugs Act was amended to lower the minimum amount of the drug methylamphetamine or syabu, the trafficking of which would attract the death penalty.

Amendments were also made to the Local Newspapers Act to regulate the printing, publishing, production and reproduction of newspapers in this country.

The Syariah Courts Act came into force on 1<sup>st</sup> Muharram 1422 Hijrah corresponding to the 26<sup>th</sup> March 2001. The enforcement of this Act marks a significant step in the development of the legal system of this country.

My Lord,

### Law Revision Exercise

Your Lordship had earlier mentioned the subject of law revision. I share Your Lordship's sentiment that this is an important exercise. My Chambers has been actively engaged in revising the Laws of Brunei. Since the Opening of the Legal Year last year, a number of Acts have been revised including the Penal Code, the Criminal Procedure Code, the Evidence Act, the Misuse of Drugs Act and the Immigration Act. I can assure Your Lordship that this revision will be a continuing exercise.

My Lord,

Even the most perfect laws on paper are useless unless they are enforced fairly and effectively. In this context, I would like to express my gratitude to officers of the Royal Brunei Police Force, the Royal Customs and Excise Department, the Immigration Department, the Anti-Corruption Bureau, the Narcotics Control Bureau and other enforcement agencies for their untiring efforts and dedication in upholding the law in sometime difficult circumstances. I would also express my appreciation for the close co-operation given to my Chambers by these agencies, which contributes greatly towards the successful discharging of the responsibility of my Chambers in conducting criminal prosecutions.

My personal gratitude also goes to the Solicitor General and to all my officers from the various Divisions in the Chambers namely Criminal Justice, Civil, International Law, Drafting and Registry

for their efforts in shouldering their responsibilities and carrying out our mandate to maintain and uphold the rule of law.

My Lord,

**Addressing the Threats of Transnational Organised Crime including anti-terrorism measures**

The events of 11<sup>th</sup> September last year in the United States have focused the world's attention on the issue of terrorism and other transnational crimes. This region is no different. In the recent ASEAN Summit held in Brunei Darussalam, ASEAN leaders strongly condemned such acts and adopted a Declaration on Joint Action to Counter Terrorism.

My Chambers is fully committed in supporting the Government's efforts in combating transnational crimes in particular international terrorism by ensuring that there are adequate and effective laws to prevent Brunei from becoming a safe haven for the perpetrators of such crimes and their assets.

We are fortunate that in implementing the Brunei International Financial Centre initiative we had enacted the Money Laundering Order, the Criminal Conduct (Recovery of Proceeds) Order and the Drug Trafficking (Recovery of Proceeds) Act, which together with our existing Internal Security Act and the Public Order Act are relevant to the fight against transnational crimes.

My Chambers is also, in consultation with relevant agencies, in the process of drafting new laws to facilitate mutual legal assistance in criminal matters with the law enforcement agencies of other countries.

In addition we are studying the relevant international instruments relating to transnational crimes and terrorism such as the UN Convention Against Transnational Organised Crimes and the International Convention for the Suppression of the Financing of Terrorism with a view to recommending if appropriate their signing and ratification.

**Alternative Dispute Resolution and the establishment of mediation and arbitration to complement the normal litigation proceedings.**

My Lord,

In my years as the Chief Registrar and as an Intermediate Court Judge, I had come to realise that there were occasions when litigation may not be the best method of settling disputes.

Due to the highly adversarial nature of the litigation process, it may sometimes be inappropriate to use the normal court litigation process to settle for instance, a commercial dispute where the relationship of the business parties should remain intact.

Thus it may be appropriate to explore an alternative form of dispute resolution to complement the normal litigation process. In this context, it is worth noting here that our Arbitration Act does allow the setting up of such alternative dispute resolution mechanism.

### **The setting up of the Small Claims court**

Our existing litigation mechanism should not be simply just focussed on facilitating disputes settlement between businesses or between those who can afford to hire lawyers. The ordinary

members of the public should not also be forgotten. It is in this respect, I humbly suggest to Your Lordship, to consider the setting up of a Small Claims Court entirely dedicated to settling disputes at an individual level. The Court should make it possible for people to settle minor contractual disputes with the minimum of fuss and expense. In countries where such mechanism has been successfully implemented, no lawyers are allowed, which means that the cases are quickly resolved at a minimum expense and the procedure is informal and private, thus avoiding the formal and often intimidating court atmosphere.

My Lord,

### **Setting Up of the Juveniles Court**

It has come to the attention of the Chambers especially in recent years that more and more offenders are juveniles (also referred as youthful offenders). There is at present inadequate provisions in the legal system to deal with them effectively, in particular the absence of juvenile courts and suitable detention places. This sometimes places the Prosecution in some difficulty in deciding whether criminal charges should be instituted against juveniles given the possibility of them facing a trial system and imprisonment facilities meant for adult offenders. I am firmly of the view that these young offenders must be treated differently by the legal system and the inadequacies I had mentioned must be addressed urgently.

### **Conclusion**

May it please Your Lordship, this brings me to the end of my address.

I am very pleased with the good relations which have long existed between my Chambers and the Judiciary as well as with the private practitioners and I hope this will continue in the years to come. The Legal System must have the faith of the people. We are all responsible to uphold its integrity.

Finally may I take this opportunity to wish Your Lordship and everyone present this morning a successful and prosperous remaining months of the year ahead.

Much Obliged.