

SPEECH

YANG BERHORMAT  
DATO SERI PADUKA HAJI KIFRAWI  
BIN DATO PADUKA HAJI KIFLI

OPENING OF LEGAL YEAR 2005  
TUESDAY, 1 MARCH 2005

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@ 02/03/05  
WSP

Bismillahir Rahmanir Rahim

Assalamualaikum Warahmatullahi Wabarakatuh

My Lord, Chief Justice and 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)

Mr David Teo

Members of the Bar

Distinguished guests

Ladies and gentlemen

It gives me great pleasure to address Your Lordship again on this occasion. 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 cooperation and mutual support for the upholding of the independence of the judiciary and the rule of law.

My Lord

My Chambers has been very busy the whole year 2004 looking into the amendments to the Constitution of Brunei Darussalam, The Succession and Regency Proclamation, 1959 and Constitution (Financial Procedure) Order and other very urgent legislations now referred as Human Trafficking Order, Employment Agency Order and Societies Order. I regret that this has delayed other draft laws, and this include the draft relating to the law society, which unfortunately is still in a long list of urgent draft legislations that we need to deal with.

My Lord

I am sure by now most of us here have received the book entitled "Constitutional Documents" in both Malay and English in which the latest amendments have been

incorporated. The book will be available for sale in the near future and can be obtained from my Chambers.

My Lord

Your Lordship has spent a considerable time lecturing on "Justice" which, fortunately, is one of my favourite subjects. I would therefore prefer in my speech to focus now on the same topic namely what we should do to do Justice. The challenges we face every year are usually the same. I am afraid I have to repeat what I have said before.

My Lord

To do Justice we should avoid unreasonable delay in investigation, prosecution and hearing of cases. We often hear the usual maxim "Justice delayed is Justice denied". Many years ago I heard another one on Justice but slightly modified when I met a court Administrator and Registrar from India. He said to me in a strong and lovely Indian accent, "Justice delayed is Justice denied. Justice hurried is Justice buried". To a certain extent I agree with him. I believe what he meant was and is, if you dispense justice

too fast to the extent of not giving enough time to either prosecutors or plaintiff or defendants to prepare their case, then you are not doing justice.

My Lord

This does not mean we should tolerate unreasonable delay in investigation and prosecution of all cases.

We should give priority to the investigation and prosecution of serious criminal cases. We should also give careful attention to cases which involve foreign complainants, important foreign witnesses and foreign defendants. They may want to leave the country. In general, enforcement agencies should ensure all cases should be investigated and for investigation to be completed without undue delay. The prosecutions should then prosecute promptly those cases decided to be prosecuted. As usual we also need the help of other departments to speed up their work such as providing the necessary Medical Reports, Scientific Reports, Land Transport's Report etc.

My Lord

I agree with Your Lordship that in doing justice we must be firm but fair. I also agree with Your Lordship as human beings, we do our best within our human limits.

My Lord

To avoid this undue delay we need sufficient trained manpower and they should be given proper tools to do their job. Our Enforcement Officers and our Lawyers including private practitioners, Legal and Judicial Officers should be continuously trained. Our buildings (Attorney General' Chambers, Court Building etc) should have enough trained supporting staff, modern equipments (such as computers) and proper facilities to serve basic needs of the staff, our lawyers and members of the public.

Your Lordship mentioned earlier the shortage of courtroom. I remember we used to have a Robing Room for Lawyers and Deputy Public Prosecutors. Unfortunately this Room was converted to; I believe court chambers. They need the room not only for changing their attires but also to refresh

themselves. Usually they should be a separate room for the lady lawyers. The lawyers also do not have proper place in the Court to discuss with their clients. My Lord, I hope when the new building is ready this year, a proper Robing Room would be allocated in this building. I also hope that when the Registry of Companies, Business and Trade Marks move to this new building still under construction, my young officers in my Chambers would have more space and thus a better working condition.

My Lord, I am sure by having proper working environment, it would promote efficiency and thus productivity.

My Lord

Those who design court buildings should take into consideration the free sunlight, fresh air outside the building, security needs and in general the requirements of the users such as the court staff, enforcements officers, lawyers, witnesses and the handicapped members of the public. This country has lots of fresh air. Although our buildings are usually air-conditioned, the buildings should also have windows that can be easily opened so as to let in this fresh

air whenever we need it.

My Lord

We need to consider other additional or improved features that may be provided in our justice system such as:

- (a) Legal aid for serious non-capital criminal cases and for certain civil cases. This may be very expensive;
- (b) Small claims courts;
- (c) Juvenile courts which deal with young offenders.

My Lord, we have already mentioned these ideas before. They are easily “said” than “done”.

To implement these ideas, not only we need the necessary budget but also require trained manpower. For example, to run the small claims court and juvenile court, you need legally trained staff, court interpreters and trained staff to look after the juveniles. The juvenile offenders have to be detained in a proper building.

My Lord

As to legal aid, legal aid is usually given only to defendants (including non Brunei citizens) who are charged for committing capital offences (offences punishable with death). This country has already given our citizens free education, and medical services and subsidied housing scheme. We also do not impose income tax to our citizens. To extend legal aid to non-capital cases would involve huge financial commitment. While we are still thinking about this, perhaps in the future our Law Society, would consider offering legal aid to the poor defendants.

My Lord

I would like to thank all my officers from the various Divisions in the Chambers namely Criminal Justice, Civil, International Law, Legislative Drafting and Registry for their hard work.

I would also like to thank all Ministries and Departments in particular the Prime Minister's Office for all their support.

I would also like to thank the Acting Commissioner of Police and his officers as well as the other law enforcement agencies namely the Narcotic Control Bureau, Anti Corruption Bureau, Royal Customs and Excise Department, Immigration Department, Royal Brunei Armed Forces and Internal Security Department for their assistance and cooperation and in their continuing effort in the preservation and the maintenance of law and Order.

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

I hope the good relations between my Chambers and the Judiciary as well as with the private practitioners will continue in the years to come. We are all responsible to uphold the integrity of our Legal System.

Lastly, I wish Your Lordship and everyone present here this morning a successful and prosperous year.