

SPEECH BY

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ATTORNEY GENERAL

AT THE OPENING OF LEGAL YEAR

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بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ
السَّلَامُ عَلَیْكُمْ وَرَحْمَةُ اللّٰهِ وَبَرَكَاتُهُ

Good Morning

Your Royal Highness Princess Hajah Muta Wakkilah Hayatul Bolkihah, My Lord Honourable Chief Justice, Yang Amat Arif Chief Syarie Judge, Honourable Judges, President of the Brunei Darussalam Law Society, Members of the Bar, Distinguished Guests, Ladies and Gentlemen.

We are grateful to Allah, the Almighty for his blessings in making it possible for us to meet here again, today, on the occasion of the Opening of the Legal Year 2010 to renew our pledges to uphold the independence of the judiciary and to maintain and uphold the rule of law for the peace, prosperity and stability of Brunei Darussalam.

It is indeed a privilege and honour for me to address Your Lordship as the first Bruneian to be appointed as Chief Justice of Brunei Darussalam. Your Lordship's appointment is indeed an important milestone in the history of The Judiciary and Brunei Darussalam and a big step forward towards realizing His Majesty's laudable vision in His Majesty's titah during the opening of the Supreme Court Building in 1984, that, in the long term, it is His Majesty's wish that all legal and judicial appointments should be filled by qualified and suitable citizens of Brunei Darussalam.

Having said that, it is also quite unnerving for me, as I stand here, in the sense that, having had the honour to sit alongside Your Lordship's

predecessors and your brother judges on that bench for many years, without having to say a word, I am now tasked with a speech. May I also, be so bold in saying that although the view from down here is not exactly that bad, I do hope that, in due course, there will be a suitable 'sister judge' to take my place to accompany Your Lordship and the other brother Judges on that bench.

May I also inject a personal note. I also wish to thank Your Lordship for your advise and guidance during our private 'handover' discussions and all the officers and staff in Chambers for their amazing support, which had helped to make the 7 months and 12 days and a few hours and minutes, since I took office with my new and wider responsibilities, much easier.

My Lord, may I now move to the more formal part of my address.

2009 has been a very busy and memorable year for Chambers. We commemorated our Golden Jubilee, 50 years Anniversary of the establishment of Attorney General's Chambers with many activities (which was initiated by Your Lordship in your capacity as AG then), commencing with Majlis Doa Kesyukuran (Recital of prayer with Maghrib and Isyak prayers) on the 28 September 2009 at the Law and Courts Building, followed by the opening /launching of corporate video and exhibition graced by Her Royal Highness Princess Hajah Muta Wakkilah Hayatul Bolkihah. Other activities included the 50th Anniversary Dinner, family day cum cleaning campaign and sports competitions. All the activities had hopefully strengthened the bond of friendship and teamwork between the officers and staff of Chambers. We have also successfully hosted the 4th

Meeting of Senior Officials on the Treaty on Mutual Legal Assistance in Criminal Matter from 3rd to 4th November, 2009 and ASEAN Law Association (ALA) Governing Council Meeting from 9th to 12th April 2009. I sincerely wish to record my gratitude to all the Organising Committee members, officers and support staff of Chambers for their hard work towards making all the activities and the meetings a great success.

My Lord,

50 years is a long time. The occasion allowed us to reflect on the past, focus on the present and to plan for the future. How much things have changed from a handful of us tucked in the cramped corridor of the old State Secretariat Building about 30 years ago.

I would take this opportunity to acknowledge the contribution of all officers and staff of AGC, past and present, in particular to the long serving officers and staff who are still with us today for their loyalty and commitment. A special mention to all our support staff, namely the translators, librarians, archives, proof reader, administrative, without whom, we would not be able to function effectively.

In the spirit of the 50th Anniversary, may I take some time to reinstate the important role of Chambers, mainly, as Legal Adviser for the Government of His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam and as Public Prosecutor under the Constitution. The role remained the same over the years but the complexity and the volume has increased tremendously. As of 8 March 2010 we have theoretically about 31 officers in the Civil Division, 29 officers in the Criminal Justice Division, 14 officers in the International Affairs Division, 10 officers in the Legislative

Drafting Division and 6 officers in the Registries Division. Effectively, however, the strength is much less since we have officers who are also doing part time courses in UNISSA, some officers seconded to various Ministries and Government Departments, some on further studies and doing the Bar in the UK and Australia, and attending courses and meetings overseas. We have also been affected by resignation and transfers, for personal reasons and for greener pastures, although the number is still fortunately quite small.

It is our hope to continue to recruit more legally qualified officers, and thus share Your Lordship's concerns on the decrease of law graduates. Perhaps, we can work together with the Law Society and the Ministry of Education on efforts to encourage more students to study law and join the honourable profession. We also look forward to the first batch of law graduates from UNISSA to join us in the future.

CIVIL DIVISION

The Civil Division continues to play a crucial role in our capacity as legal advisor to the Government on a whole range of matters. At present, the officers of the Division also has to deal with Government debt recovery. Although, we are pleased to be able to recover more than 4 million Brunei Dollars in 2009 of debts owed, they take up a lot of the officers time which can be spent on the core business such as advisory matters, contracts vetting and drafting and on legal awareness briefings to Government Departments and the public. I am working with the Head of Civil Division to look into the possibility and practicality of outsourcing these debt recovery cases subject to the Government of His Majesty's

approval. I must emphasise, however, it is important for the relevant Government agencies to exercise due diligence in collecting the amount due and not to allow them to accumulate.

CRIMINAL JUSTICE DIVISION

The workload on our prosecutors continue to increase. In 2009, 1932 investigation papers were received. We fully support Your Lordship's call for cases to be dealt with expeditiously. Indeed, I have been working closely with the CJD on this issue. A system of designating specialized officers to deal with particular offences and better tracking of investigation papers and a review of work processes, and a regular audit amongst others, have been implemented. Two DPPs have been seconded to Anti Corruption Bureau and 1 DPP to the Royal Brunei Police Force.

We therefore support Your Lordship's call for the appointment of more judicial officers especially in the Subordinate Courts. The practice in Chambers is that all new young officers will first join CJD with the aim that they will be involved in Litigation which, I feel, is important and useful for their development, to build their confidence and advocacy skills. They will also be given continuous training. CJD will continue to work closely with the enforcement agencies such as Police, NCB, ACB, Royal Customs and Excise and Immigration in order to increase efficiency and standard of investigation. As Your Lordship would appreciate, whatever opinion one is entitled to have, eventually, it is the task of the prosecution to present the evidence in court and for the courts to decide based on the evidence presented.

Chambers also assist relevant government agencies in regional and transnational efforts in combating transnational crimes in particular through mutual legal assistance and extradition. The AGC is the central authority for Brunei Darussalam in respect of mutual assistance in criminal matters. We are currently finalizing the draft of a new comprehensive law against terrorism to fulfill our international obligations in combating the global threat.

The Children and Young Persons (Amendment) Order came into effect on 1 March 2010. The enforcement of this legislation means another important milestone in Brunei Darussalam, Criminal Justice system. It provides for the setting up of a juvenile court with the universally accepted principle that youth offenders (under 18) should be treated differently from that of adult offenders. The spirit of the Order, is to decriminalize and remove young offenders from penal institutions and to increase the Juvenile courts intervention in the re-integration of young offenders into the society. Respecting this principle, Chambers will maintain, as had been the approach always, the “prosecution last” policy in the public interest to rehabilitate them into law abiding adults.

INTERNATIONAL AFFAIRS DIVISION

Building up international law expertise has been and will continue to be long term objective of Chambers. As Brunei Darussalam celebrated our 26th year of independence, Brunei Darussalam’s international commitments have since increased tremendously. I am pleased to say that the International Affairs Division has contributed immensely in the co-ordination and consultation and we are grateful to the Ministry of Foreign

Affairs and Trade and other Ministries and Government Departments for giving our officers the trust and the opportunity to learn from the exposure in the various international fora. We look forward to further co-operation and to enhance the competence and experience of the existing pool of experts in various areas, which Chambers is proud to have produced.

LEGISLATIVE DRAFTING AND LAW REVISION

The pace and quantity of legislation has increased significantly. As Your Lordship would appreciate, drafting is not an easy task. It requires patience and meticulous strokes of the paint brush, if I may use that term. Our concern is for 'good law' which may not be 'quick law'. We do not make policies, but take instructions on matters of policy from relevant Departments/Ministries. Under Your Lordship's initiative, guidelines on drafting procedure have been issued. We hope to improve further by issuing in due course a 'simpler manual' for the use of Ministries and Government Departments as well as for the officers in Chambers.

I have been politely warned that long speeches can numb the audience. I will therefore refrain from mentioning the legislation that have been passed or approved by His Majesty The Sultan and Yang Di-Pertuan of Brunei Darussalam since the last legal year and invite those who are interested to refer to the AGC's website www.agc.gov.bn where they will be published with the relevant commencement dates or contact the LDD for further information. Of particular interest to the legal profession, may be the Arbitration Order 2009 and The International Arbitration Order, 2009.

LAW REVISION

Four more Orders made by His Majesty the Sultan and Yang Di-Pertuan under Article 83(3) of the Constitution of Brunei Darussalam have been revised since the Opening of the Legal Year held last year and are now referred to as 'Acts'. They will similarly be published in the same website.

My Lord,

At this juncture, I would like to seize the opportunity to pay a special tribute to Mr John Brian Wilkinson, who will end his service with Chambers on 10 July 2010. Brian, as the Legal Draftsman had made significant contribution to the LDD, and the drafting of numerous laws, since, he first joined AGC on 24 May 1989. He had also mentored and trained the officers under his care, as a result of which there are now capable and committed officers in the Division. On behalf of the Government of His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam, officers and staff of the Attorney General's Chambers, particularly, those in the Legislative Drafting Division, I wish to thank Brian for his significant contribution, and wish him good health and success in his future endeavours.

REGISTRY

The AG is also the Registrar of Companies, Registrar of Business Names, Registrar of Trademarks and Industrial Designs. The reason why these duties fall on the AG, would I guess, be historical. For the sake of

clarification, the Registry, as the name implies, is only concerned with registration and not licensing.

The Registry of Companies received a total number of 355 companies being incorporated in 2009 and 6556 documents being filed. For Business Names 4009 were registered in 2009 with 3156 documents being filed under the Business Names Act. Hopefully, the increase in the number of businesses being registered and filed is a positive indicator of economic development. The Registry is also involved in giving briefings to Government officers, students of higher education as well as the public. The E-Registry has enhanced the efficiency of our services but we hope to do even better.

The Registry of Trademarks received 649 applications in 2009 while the Registry of Industrial Design received 31 applications. Besides dealing with new applications in trademark, the Registry also received 3636 matters related to trademark. The officers from the Registry of Trademark and Industrial Design also organized road shows, lectures and briefing to local SMEs. Inventors, Government officials, students of higher learning institute and cooperated with right holders in enforcing their IP rights. Officers also attended regional and international meetings, workshop and seminar in their efforts to enhance their expertise and knowledge as well as networking. We hope to introduce an online filing system for trademarks early next year and are currently in discussion with WIPO and USPTO to assist us with our Patent Rules and related matters.

Barrack Obama, the President of USA, said 'Innovation and creativity are drivers of economic development, producing jobs and a better standard of living'. A strong protection and enforcement of IP rights are critical components for economic growth and development. IP theft kills innovations and creativity.

I hasten to pose the question, if it is time for Brunei Darussalam to establish a lead government agency or other suitable institution, to formulate policies akin to our national and international obligation tasked with the role to advise on and administer laws, to promote IP awareness and infrastructure to facilitate development of IP in Brunei Darussalam and serve as IP regulator and policy advisor. In Singapore, IPOS, (Intellectual Property Office of Singapore) is a statutory body under the Ministry of Law. Whilst in the Intellectual Property Corporation of Malaysia, the acronym, MYIPO, is now corporatised, from its earlier existence under Ministry of Domestic Trade and Consumer Affairs. In Korea, the Executive Office of the IP Strategy is under the Prime Minister's Office. These are just some models that we can consider.

The AGC is ever ready to assist, if required, with the assistance of institutions such as WIPO and USPTO, with whom Chambers have a good rapport.

My Lord

WHAT OF THE FUTURE?

We do not know what the future will bring but we remain optimistic and stand committed to strive to do better. As far as the hardware is concerned, one of which is the IT systems which we can use to increase

efficiency of our work process and delivery, we are hoping to upgrade what has been successfully embarked by Your Lordship. For this purpose, an IT Steering Committee, led by the Solicitor General, Datin Paduka Magdalene Chong, has been established. We also hope to launch our Strategic Planning by the end of the year and the Committee is led by the Assistant Solicitor General, Pg Hj Zahaidah. They will work in close consultation with myself. I look forward to receive their proposals. We hope that the appropriate authority will give us favourable consideration. In the meantime, we will continue to conduct manually quarterly Audits of the work process and delivery in each Division to minimise delays and encourage a proactive work attitude. I am most grateful to all the Head of Divisions and all the officers in each Division for their sincerity in identifying the problems, their readiness to work together to finding possible solutions and their genuine pledge to strive to improve.

In terms of the software, by which I mean, our people (men & Women/or women and men), on whom we place great importance, I am grateful to His Majesty's Government, for the understanding and support to provide continuous training and exposure to our officers. I urge the officers to utilize the knowledge they gained not only to better themselves but to share with others. We hope to establish very soon, an internal Human Resource Development Committee, which will help to identify the areas of specialization required by Chambers and the Government of His Majesty the Sultan and Yang Di-Pertuan with the objective to offer potential officers in Chambers to pursue such relevant courses overseas. We are fortunate to have recruited many well qualified young graduates who are working well under the supervision of the senior officers. We see a lot of potential in them to steer Chambers to a bright future, provided,

they continue to work hard and possess the enthusiasm to continue learning. To retain talents and quality, a review of the current structure is inevitable and I wish to thank the Prime Minister's Office for their understanding and co-operation. However, remuneration aside; it is my hope that this younger generation in Chambers will stay because they are passionate about law as their calling and take great pride to serve their people and their country.

Before I conclude my address, to respond to Your Lordship query on the overhead bridge connecting our 3 buildings, I am pleased to report that a budget had been allocated and we hope to embark soon on the tendering process. (I will reserve my response on the 'restrooms')

CONCLUSION.

In conclusion, on behalf of all my colleagues in the AGC, I assure Your Lordship, your brethren Judges, Magistrates and Registrars, our fullest support and co-operation in your honorable and difficult task of dispensing justice in Brunei Darussalam. The Chambers also look forward to continue the good co-operation with the Syariah Courts, the Law Society, Royal Brunei Police Force, and all other enforcement agencies, in fulfilling our respective duties as partners in the machinery of justice, with the fortitude and integrity required of us.

I wish Your Lordship, your judicial brethren and staff of the Judiciary, members of the Bar and all those present today a healthy and successful 2010.

وبالله التوفيق والهداية ، السلام عليكم ورحمة الله وبركاته

Thank you.