

SPEECH BY
YANG BERTHORMAT
DATO PADUKA HAJI HAIROL ARNI BIN HAJI ABDUL MAJID
ATTORNEY GENERAL
AT THE OPENING OF LEGAL YEAR
THURSDAY, 10 JANUARY 2019

My Lord Chief Justice,

Honourable 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 Amat Arif Chief Syariah Judge,

Distinguished Guests

Honourable Judges,

Excellencies,

President of the law Society,

Members of the Bar,

Ladies and Gentlemen

Assalamualaikum Warahatullahi Wabarakatuh and Good Morning,

On behalf of the Attorney General's Chamber, firstly I extend my warmest congratulations to your Lordship on your elevation to the apex of the seat in the Supreme Court as Chief Justice.

Also, my warmest congratulations to Justice Pg. Datin Paduka Hjjh. Rostainah Binti Pg. Duraman on her appointment as Justice of the Supreme Court and Hj. Abdullah Soefri bin Pehin Orang Kaya Saiful Muluk Dato Seri Paduka Hj. Abidin on his appointment to the office of the Chief Registrar of the Supreme Court.

These are well deserved appointments. Having worked with and alongside your lordship for some 25 years, I am in no doubt with your lordship visionary and resolute leadership, the Judiciary is in a good hand.

It is always a great honour and a privilege to be in attendance in this important occasion marking the opening of the legal year, a gathering to bring together the legal fraternity and everyone concerned with the law to reaffirm our commitment to uphold the principle of the rule of law, to honour and celebrate the liberty, justice and the independence of the Judiciary

Cybercrime / Cybersecurity

Allow me to start this morning with this topic which appears to be of great concern to us and around the world relating to the 4th industrial revolution.

The proliferation of the communication technology has already advanced at unprecedented speed and countries around the world have found themselves responding to wide ranges of issues from this so called 4th Industrial Revolution. With it, there is this new capacity for free expression and free movement of information and with it a wide virtual landscape of audience. Due to this advancement of communication technology and connectivity, we found ourselves reacting to things that is happening much more quickly than before. Ministries and The Attorney General's Chamber without exception is confronted with newly rising and complex legal matters which compel us to be more innovative and dynamic in our legal advice and conduct of litigation

Conscious of the fact that technology is driving the changes in almost all aspect of our lives, we must remain steadfast to keep abreast in drafting new laws in order to regulate them.

In August last year, we were honored to host the 11th China - Asean Prosecutor General Conference under the theme "Enhancing Capabilities and Cooperation in Addressing Cybercrime", which was attended by Prosecutors Generals from Asean Member states, China as well as the special Administrative Region of Hong Kong and Special Administrative Region of Macau. The take away from the conference is the strong commitment by ASEAN and China to work closely together to address cybercrime and transnational organized crimes at both national and regional level. Besides sharing best practices and way forwards, there is obvious realization by our ASEAN partners that we need China, as perhaps being the most technologically advanced nation in this region to underpin this process of cooperation if we are to be efficient and successful in combating this problem. At the end of the conference a joint declaration was signed by the parties to cement this commitment.

There is so much to be said about cybercrimes and cybersecurity threats that has been going on around the world and I am not going to bore your lordship with the specifics but suffice to say conscious of this fact, His Majesty the Sultan and Yang Dipertuan Negara Brunei Darussalam has consented for the Attorney General's Chamber working closely with the Prime Minister's Office and the Ministry of Communication to draft a new legislation to create a regulatory framework for monitoring and more efficient reporting of cybersecurity threats. At the same time, it also creates a licensing regime which also serve to regulate how data security be

handled by mobile networks and data security provider. It is hope that this new law will add further dimension to data privacy, cybercrime legal frame work and cybersecurity as a whole.

Legislation Amendments

On the subject of legislation, last year we have made amendments to the provisions relating to criminal breach of trust (CBT) under the Penal Code by increasing the punishment of imprisonment for these offences. The custodial sentence for criminal breach of trust under section 406 has been increased from 5 to 10 years. CBT committed by carrier entrusted with property under section 407, the custodial sentence has been increased from 10 to 15 years. For CBT committed by clerks or servants, the custodial sentence may now extend to 15 years, which was previously 10 years. While, criminal breach of trust committed by civil servant, banker and merchant or agent, the custodial sentence is now 20 years' maximum which was previously 10 years.

Other amendments also incorporate 2 new sections where the new section 409A provides that it is not a defence to show that the property was openly appropriated or that the appropriation was duly recorded and entered in the book and account of any company or association or body of person whether incorporated or not.

Whilst, section 409B now provides a presumption in relation to offences involving criminal breaches of trust in that any person entrusted with property or with dominion over property is presumed to have acted dishonestly where it is proved that he had misappropriated the property, used or disposed of that property in violation of any direction of law or suffered any person to do any of the acts.

Suicides / Mental health

Another matter of a significant concern which the Attorney General Chamber join with the Brunei Community, which I wish to share briefly this morning is over the rising rate of suicide and mental health issues. According to police statistics, from 2014 to 2017, the Royal Brunei Police Force has recorded 35 suicide cases, 6 cases in 2014, 8 each in 2015 and 2016 and 13 in 2017 and 9 attempted suicides. From January to August 2018 last year, there had been 11 suicides and 7 attempted suicides, an alarming number for a small country.

While society's perception and stigmatism discourage talking or for that matter admitting to having this issue, I believe more awareness programs (roadshows, public education) can help and with other relevant government agencies and non-

government agencies (NGOs) providing social support and counselling in order to provide a mindset change on mental disorders. More training programs on the Mental Health Order for social workers, health professionals, family members concerned and teachers.

Law Society

Finally, I want to say a few words concerning the Law Society. The Law Society being the professional association for barristers and solicitors in the country acts not only as a disciplinary and regulatory body but as well represents the interest of its members. Born as a self-disciplinary body, in itself bring such an honored tradition being the so called “the champion of the people”. The law Society obviously plays a positive and vital role in society, providing effective access to justice and professional advice on all legal matters, at the same time acts as one of the important machinery in maintaining checks and balances in the proper function of due process of the law.

Inevitably, however there will be occasion when lawyers fail to exercise self-discipline and fail to fulfill their commitment. On such occasion, they found themselves under disciplinary consideration. Currently, with our two-tier inquiry panel and disciplinary committee process under the Legal profession (Law Society of Brunei Darussalam) Order, delay in disposing the disciplinary process too often left complainants in a much discontentment and their obvious reaction is simply that the Law Society has failed them and accusation being made that the Law Society existence is solely to protect its members.

I personally know that there has been difficulty in getting members of the public to sit in the inquiry panel and disciplinary committee, given that most appear to know everyone else, thus raise this issue of conflict. Moving forward, perhaps it is timely that we should revisit this provision with a view of having only one tier inquiry panel or committee and the disciplinary evaluation process to be determined and dealt with by the court.

My chamber will work closely with the Law Society on this and hope to find a right balance of mercy and justice as such the rules should strive to give lawyers consistence and equitable responses to misconduct in a manner which is fair and judicious at all time and at the same time, expeditious in responding to these complaints. My concern is born solely with the impetus of maintaining standard and integrity of the Law Society.

On this important occasion, I would like to take the opportunity to thank the personnel of the Royal Brunei Police Force, Anti-Corruption Bureau, Narcotic Control Bureau, Royal Custom and Excise, the Prison Department, Immigration and National Registration Department and Labour Department for their hard work, cooperation and dedication in maintaining peace and stability in the country which we at times taken for granted.

To conclude, I extend my sincere gratitude to the Chief Registrar and the organizing committee for their hard work and their excellent arrangement in this morning event. I wish your Lordship, members of the Judiciary, member of the legal fraternity and all present this morning a happy and successful new year 2019.

Thank you