

SPEECH BY

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ATTORNEY GENERAL

AT THE OPENING OF LEGAL YEAR

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بسم الله الرحمن الرحيم

السلام عليكم ورحمة الله وبركاته

A very good morning to all.

My Lord Honourable Chief Justice, Yang Amat Arif Chief Syarie Judge, Honourable Judges, President of the Brunei Darussalam Law Society, Members of the Bar, Excellencies, Distinguished Guests, Ladies and Gentlemen.

On 15th March, 1984, during the official opening of this historical building, His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam delivered a Titah and I quote an excerpt of the English translation as follows:

“We shall strive tirelessly as far as we can to ensure that the Rule of Law is always preserved and the fair and free administration of justice is always protected. Insyallah, in such

way, Brunei Darussalam will continue to prosper in harmony for the everlasting welfare of its citizens and the people.”

Alhamdulillah, here we are assembled in this very building almost 30 years later. Most of us present here are involved in the administration of justice led by the Judiciary, with the same ends in mind, to administer a fair and efficient justice and service to the public with the professionalism and integrity expected from all of us. We reaffirm our support to the Judiciary in all courts.

On the implementation (in phases) of the Syariah Penal Code Order, our Criminal Justice Division will be providing our expertise to the Syariah Prosecution Unit. The syariah prosecution had done their attachment with our Criminal Justice Division to enhance their expertise and skills in basic prosecution. Chambers is also involved in the discussion and drafting of the Syariah Criminal Procedure Code.

Congratulations/acknowledgement

1. I begin my address today by conveying our best wishes and congratulations on the much deserved and much welcome appointment of Her Ladyship Pg Hj Rostainah Pg Hj Duraman, the Chief Registrar as Judicial Commissioner and His Honour Judge Hj Abdullah Soefri Pehin Orang Kaya Saiful Muluk DP Hj Abidin as Intermediate Court Judge. We also welcome the appointment of the additional Magistrate/Registrar. The much needed addition will no doubt allow cases to be heard more expeditiously.

2. We also congratulate Awg Hj Mohd Rozaiman DP Hj Abd Rahman the President of Law Society for 2014-2016 and the Council members.

3. We commend the laudable effort of the Law Society on their initiatives including the voluntary legal clinic. We wish that more members respond to provide their services although I note that there are also members who have gone out of their way to contribute to the less fortunate member of our society in various

ways. I hope that the Law Society being the only institution that looks after the legal fraternity, will strengthen their esprit de corps. As the ASEAN Community 2015 and the TPP amongst others becomes closer to reality, the liberisation of legal services may become inevitable.

Our Quest towards continuous improvement

4. In my Speech at the last Opening of Legal Year My Lord may recall that I spoke about the various initiatives launched by Chambers in our quest towards continuous improvement. I would like to report on some of them and other initiatives since taken by Chambers. First, on the role of AG as legal adviser. The advisory role of my officers may be the least known and the least profiled being done mostly behind the scene, and sometimes alongside consultants engaged by the relevant Ministry and may not always get the credit they deserve.

Legislative Drafting Division

5. I am pleased to announce that as a follow up of the publication of the Handbook on Drafting Instruction, the

Legislative Drafting Division and Research and Law Review Division held a series of briefings on the Law Making Process to all Government Departments, Ministries and statutory bodies.

6. Alhamdulillah, the Legislative Drafting Division had received positive feedback. We are pleased to learn that some Ministries have even disseminated what they had learned to all their Departments under their Ministry, one such Ministry being the Ministry of Home Affairs. We are most encouraged by such positive support.

7. In October last year the Legislative Drafting Division organized a Legislative Drafting Workshop conducted by an expert from the Commonwealth.

8. In an effort to ensure that the Malay translations of English text of the laws of Brunei Darussalam are translated in accordance with the context of the laws and consistently throughout, the Translation Unit took the initiative to hold group working discussions amongst themselves with the guidance of the Legislative Drafting officers. This is to encourage the

translators to be more confident and to discuss and exchange matters of interest to them on recent trend in translation.

9. Chambers through BruLaw Unit under Legislative Drafting Division, the Law Library and the Information and Communication Technology Unit, is continuously uploading Government Gazettes publication onto the AGC website to allow interested parties to have access of the Laws of Brunei Darussalam. The Law Revision Unit under the Legislative Drafting division is also continuously revising the Laws of Brunei Darussalam to ensure updated version s are available for ease of reference. From January 2013 to January 2014 the numbers of Chapters that had been revised are 17 Acts and the numbers of principal and subsidiary legislation passed and gazetted are 45.

Civil Division

10. The referrals for the core business of the Civil Division in advising/vetting and drafting of contracts for Government projects, Government debt recovery despite the constraint of manpower continue to increase in numbers and complexities. In

the effort to be more proactive and efficient, the Civil Division conducted several muzakarah sessions and briefings in relation to contract management and debt collection which aim to increase awareness of Ministries and Department's responsibilities and legislated powers. Recently the Civil Division in co-operation with the E-Government National Centre held a muzakarah session with the objective of explaining the functions and responsibilities of the Civil Division, to increase awareness as to the importance of proper contract management, to enable EGNC and my Chambers to better assist clients/ departments/ministries in providing advice and drafting appropriate contract within a reasonable timeframe and to help agencies /department understand the process involved in preparation of contract. Alhamdulillah we received encouraging feedback from the representatives attending the muzakarah, with some requesting for a workshop on this topic as well as more awareness be targeted to senior management.

INTERNATIONAL AFFAIRS DIVISION

11. During the past year IAD continue to assist in preparing country reports attending meetings and advising on key international law issues. Amongst the highlights being:

- membership to the ASEAN enhanced dispute settlement mechanism task force
- legal advice in on-going negotiations of the trans pacific partnership agreement.
- development of the Asean Single Window
- accession to treaties
- privileges and immunities of international organisations
- human rights issues
- consultancy agreements with international organisations.
- legal scrubbing of international law instruments
- advice on ASEAN instruments

12. The increase in the work load of the International Affairs Division is testament of Brunei Darussalam's increased prominence in the international fora.

THE 6th Annual Event Between the Attorney General's Chambers (AGCs) of Brunei Darussalam, Malaysia and Singapore (Tri-AGC)

13. Chambers successfully organized the 6th Tri AGC Event in October 2013. Your Lordship had initiated this gathering of officers from the Attorney General's Chambers of Brunei Darussalam, Malaysia and Singapore during your term as the AG. The theme for the event was "Overcoming new challenges with innovative legal solution". This Event served as a forum for the exchange of information and experiences between the 3 Chambers, to strengthen the existing ties and to forge closer working relationship between the 3 Chambers.

14. I wish to record my sincere appreciation to members of the Organising Committee for their hard work and the relevant agencies who had contributed to the success of the Event.

15. To commemorate the Event, Chambers also published compilation of papers presented at the First, Second and Third Annual Event as well as Attorney General's Chambers Report from August 2009-June 2013. I wish to record my sincere appreciation to the Members of the Editorial Committee for the initiative.

Intellectual Property

16. On the further development of IP, I am pleased to report that His Majesty has consented to the amendment of the Copyright Order in 2013. This Order enhanced enforcement provisions for copyright infringement by increasing penalties for offences under the Copyright Order, adding new offences, strengthening the powers of the enforcement agencies and allowing for private prosecutions by way of authorization or fiat by the Public Prosecutor.

17. The Copyright (Amendment) Order 2013 is one of the many initiatives undertaken by Brunei Darussalam to improve the protection of intellectual property. In May 2013 Brunei Darussalam was removed from the USTR 301 Special Report. This cannot be achieved without coordinated support from the relevant agencies and the continuous support from the Government.

18. Another significant milestone is the establishment of Brunei Intellectual Property Office (Bru IPO) in June 2013. The setting up of Bru IPO will be an important driver to the economy. I wish them a very successful future and Chambers will continue to provide support where required.

Information Technology

19. Chambers are in the final stage of having a customized file management application system designed to facilitate internal work process and to enable user to conduct routine task more efficiently and effectively. The project is 70% in its implementation stage. The schedule training for the

Administrators, train the trainers and end user training will be due this month. Hopefully after the commissioning and completion of the said training the system can be fully run by my Chambers and evaluation on the real time use of the system can be made. In this regard I urge all my officers and staff to fully embrace the system once it is ready and running.

Development of Human capital

20. Chambers is constantly striving to improve the quality of legal service and prosecution. We aspire to do better and better despite facing continuous challenges including transfer, resignation of officers mostly lured by the much greener pastures elsewhere. Human resource development is therefore crucial for Chambers. The Human Resource Committee in Chambers chaired by the Solicitor General with all Head of Divisions and the Senior Administrative Officer as members, plays a very integral part. I believe that they are in the best position to assess the legal content of the training and the short and long term benefit to Chambers and the country. We gratefully acknowledge the Prime

Minister's Office for the support and understanding of our training needs. I seek their greater understanding and support.

21. Training includes inviting experts to conduct in house training, regular sharing and discussing legal issues of common interest among the officers. Officers from all Division in Chambers were attached to our counterparts in Malaysia, Singapore, Hong Kong and renown civil and criminal Chambers in London and Singapore. The exposure and networking had proved beneficial to the officers. We hope to continue to send more officers as part of our specialization career progression and succession planning in line with Brunei Darussalam vision 2035 to provide educated and highly skilled people. We hope we will continue to get the understanding and support to make this possible. I see training as an investment for the country as they will be an asset, whether they continue to stay in Chambers or join other Ministry, Statutory Board or other private institution in their future career.

22. In line with Chambers Strategic Planning of producing one specialist in some identified subjects and areas of practice I am happy to announce in 2013 Chambers saw the return of 3 officers after doing their Masters of Law in various areas.

23. Three officers from Chambers are currently doing their Masters of Law in the United Kingdom in various field of law and hopefully when they come back this year they will form another pool of expertise in the areas which the Human Resource Committee had identified.

24. In June 2013, Dk Didi-Nuraza binti Pg Latiff from the Criminal Justice Division, successfully graduated from the National Association of Attorney's General (NAGTRI) International Fellows Programme on Cybercrime after being selected from over 200 participants worldwide from 70 countries to participate in the said programme. The purpose of the NAGTRI International Fellows Program is to provide a forum for elite government attorneys from around the world to learn from each other, explore

common issues together, and establish an intergovernmental network to the mutual benefit of their respective offices.

25. From January to December 2013 Chambers had also hosted work attachments for over 40 students ranging from those doing their A-Levels as well as university undergraduates and graduates. It is hoped that such exposure to the variety of work in Chambers will inspire them to join this novel profession. Chambers is proud to say that most of these students do indeed join Chambers to start their legal career after they have graduated.

AG as Public Prosecutor

26. Last year saw the introduction of the Criminal Case Negotiation Guidelines which was intended to expedite the resolution of criminal cases. From January to December 2013, there were 20 cases that went for CCN of which 9 cases resulted in a plea bargain (plea of guilty to lesser offences/lesser number of charges), 3 cases resulted in agreement of facts thereby narrowing the issues for trial, 8 were unsuccessful. I would like to

express our appreciation to the Judges for the support and to the criminal defence lawyers for their co-operation in this initiative towards timely disposal of cases. I hope that the CCN can be more effectively utilized this year with your continuous support.

27. The Criminal Justice Division held Basic Prosecution Training Course in January this year. We aim to hold such course annually. The aim for such a course is to train more officers to be prosecutors so as to be able to conduct the prosecution of offences within their jurisdiction. This is the practise in our neighbouring countries. Currently Police Prosecutors do the bulk of all traffic cases, the Narcotics Control Bureau Prosecutors do their part in prosecuting simple undefended cases of possession and consumption of drugs, customs conduct prosecution for undefended Custom and Excise offences and Immigration Prosecutors conduct prosecution for simple and undefended Immigration and passport offences. However, the bulk of the criminal offences, are still handled by Deputy Public Prosecutors.

28. In order to allow DPPs to give priority in the preparation of more serious and complex cases and appeals, we will continue to encourage and assist other Departments to set up their own prosecution unit to deal with the prosecution of simple offences under their jurisdiction so as to expedite the prosecution of their cases as being done in other jurisdiction.

29. Our Deputy Public Prosecutors have also been very active in holding dialogues with various enforcement agencies namely the Police, Customs, Immigration, Narcotics, municipal and AiTi in our efforts to highlight their powers of investigations under their relevant jurisdiction. Their standard of investigation will inevitably have a direct impact on the success of any prosecution. We therefore strongly support their intensive training and the enhanced knowledge and experience can be brought in and be disseminated to their respective Organisation. My Chambers stand committed to assist including in the drafting of internal checklist and guidelines as well as officers' instruction manual, where suitable.

30. The Criminal Justice Division is also currently working on a number of written guidelines namely the Mutual Legal Assistance, Criminal Asset Recovery Order Manual. These publications aim to provide user-friendly guidance not only to prosecutors but also law enforcement agencies in clarifying and detailing the procedures behind these laws which will no doubt be of benefit to those involved in such work.

Timely completion of cases

31. On the important subject of timely completion of cases, we take serious note of the Court of Appeal observation in recent cases in particular Maimun Haji Omar vs PP, Criminal Appeal 1 of 2013.

32. We therefore applaud my Lord's initiatives on the Judicial Case Management System. We agree that it is people assisted by technology that make the justice system work. We fully acknowledge that it is a collective responsibility. With My Lord's laudable initiatives, Chambers own initiatives, supported by a competent, professional and responsible enforcement agencies

and the Bar, I am confident that we can continue to work collectively to improve the administration of justice in Brunei Darussalam, that we can all be proud of.

The Internet and Social Media

33. Starting September 2013 the Criminal Justice Division embarked on a pilot project aimed specifically to educate youths and to raise awareness on cybercrimes and the dangers and risks of social media. In this regard there are legislations such as offences under the Penal Code, the Public Order Act, the Broadcasting Act as well as under the Syariah Penal Code Order and the Sedition Act amongst others. These Orders are accessible from our website for reference.

34. So far the project have reached over 600 students in 3 schools in the Brunei-Muara district with plans to continue the project to educational institutions in the other districts and perhaps, the general public, this year.

35. In a similar way the Criminal Justice Division continues to raise awareness concerning laws, particularly those which are

complex and have transnational implications, particularly amongst stakeholders. One recent initiative was a talk to Embassies on Brunei Darussalam's legal framework on trafficking and smuggling of persons which was done in conjunction with the National Ad Hoc Committee on Trafficking in Persons of which my Chambers is a member. We are most encouraged by the great response and positive feedback.

Conclusion

In conclusion, I take this opportunity to express my heartfelt gratitude and appreciation to all my officers and support staff for their continuous commitment, their support, integrity, perseverance and unity to meet the ever increasing expectation of legal services entrusted upon us. I welcome those who have recently joined Chambers. I am impressed by their enthusiasm to learn. Many of them have great potential to lead Chambers in the future, InsyaAllah. I hope, they will stay on in Chambers to do so. To those that have left us to start a new beginning, we thank them for their contribution to Chambers and wish them the

best. To those who have retired, we thank them and wish them all a happy retirement. We also value the good rapport and cooperation of the various enforcement agencies, Ministries and Departments and look forward to further co-operation.

Finally, I and all in Chambers, wish my Lord, members of the legal fraternity and all present a happy and successful 2014.

وبالله التوفيق والهداية ، السلام عليكم ورحمة الله وبركاته

Thank you.