

SPEECH

DATO PADUKA KIFRAWI BIN DATO PADUKA HAJI KIFLI

ATTORNEY GENERAL

ON THE OPENING OF LEGAL YEAR, 2001

Tuesday, 13 February 2001

Bismillahir Rahmanir Rahim,

Assalamualaikum Warahmatullahi Wabarakatuh,

My Lord, Judges of the High Court.

Yang Berhormat, Pehin Orang Kaya Laila Setia Bakti Diraja Dato Laila Utama Awang Haji Isa bin Pehin Datu Perdana Manteri Dato Laila Utama Awang Haji Ibrahim, Special Adviser to His Majesty The Sultan and Yang Di-Pertuan Negara Brunei Darussalam in the Prime Minister's Office and Minister of Home Affairs.

Distinguished guests,

Ladies and gentlemen,

It gives me great pleasure as always to be able to address this court as Attorney General on the formal opening of the Legal Year.

We are thankful to Allah Subhanahu Wata'ala for his blessings in making it possible for us to once again to be present at this ceremony this morning to observe a very important legal tradition and to renew our pledges of co-operation and mutual support in the proper running of our machinery of justice and to uphold the Rule of Law.

My Lord,

At this ceremony, it has become appropriate for us to reflect on the trail of our past year and try to chart our journey to the future.

New Legislation

Since the opening of the legal year at the first turn of the new century, several legislations have been passed. I would like to mention briefly on some of them.

Legislation to support the Brunei International Financial Centre

The Attorney General's Chambers had been actively involved in the introduction of several new legislations to support the Government's initiative in establishing Brunei as an International Financial Centre. These legislations include the **International Banking Order, 2000**, the **International Business Companies Order, 2000**, the **Registered Agents and Trustees Licensing Order, 2000**, the **International Trusts Order, 2000** and **International Limited Partnerships Order, 2000**. Most of these legislations came into effect from 1st July of last year.

Legislation to support E-commerce and Electronic Government.

Several new legislations have also been introduced to support the Government's effort in trying to encourage the development of electronic commerce in the country. The most important of which is the introduction of the **Electronic Transactions Order, 2000** which was approved by His Majesty on the 20th November last year. Once this legislation comes into full effect, it will amongst others, give legal validity, to contracts formed electronically, recognises digital signatures and certification authorities. The law will provide a secure legal infrastructure from which electronic transactions can take place.

The new legislation also provides a general provision that will allow Government Departments and agencies to embark on their electronic Government or the e-Government initiatives without having to substantially reamend the existing legislations.

Whilst the Internet revolution and electronic commerce will provide another business platform for our businesses, they have also generated new challenges for the law enforcement. New crimes are brought about by the new technology. Previously for example, "theft of services" was unknown to our Penal Code. But now there are people who profited by gaining unauthorised free access to the Internet Service Providers by either stealing someone else's passwords or simply "hacking" his way through the computer system of the Internet service provider. Globally, we have heard of cases of where computer systems were broken into and valuable data stolen by these unauthorised accesses.

Thus realising "Computer hacking" and other cyber crimes can inhibit the development of electronic commerce and the proper use of IT, one of the most important initiatives recommended by the Attorney General's Chambers is the introduction of the **Computer Misuse Order 2000**, which introduces a new set of offences specifically to address the possible abuses of information technology and the Internet. This law came into effect on the 21st June of last year.

It is comforting to note that Brunei is amongst the first few countries in this region, to have introduced such a comprehensive provision.

I personally believe that any legal system that does not prepare itself to these new challenges will only create itself a haven for such new type of criminal activities.

Whilst the Government is committed to developing the positive aspects of the Internet and the tremendous benefits and opportunities it can bring to our society, the Government is also aware of the negative side of it. The proliferation of undesirable Internet content or sites such as cyberporn sites or Internet gambling, like other countries, is also a key concern here.

Therefore the Government has recently introduced a new **Internet Class licensing scheme** and an **Internet Code of Practice**. These new regulations which came into effect yesterday (12th February 2001) are a set of subsidiary legislations to the Broadcasting Act (Chapter 180). The primary purpose of these subsidiary legislations is to regulate local Internet content so as to ensure that any content that is provided by the local content provider is not against the public interest or national harmony or which offends against good taste and decency.

Internal Development at the Attorney General's Chambers

Touching on the subject of Information Technology, I would like to share with your Lordship, the latest development that is currently taking place in my Chambers. From the beginning of this year, we have embarked on a very ambitious internal IT development project. This is in line with the Government's initiative in trying to promote electronic Government and greater use of IT. We have deployed a full network infrastructure at the Law Building and with the exception of the Registry of Trademarks and Patent, we have now achieved full network connectivity not only to our internal productivity applications but as well as to the Internet on an ADSL line. We have now fully achieved a one to one PC ratio amongst all the officers in every division of my Chambers. We have also deployed a number of

applications focussing on how we can use the current Internet technology to develop an intranet system. The entire system is now managed by the newly set up IT unit in my Chambers.

In this respect, I would like take the opportunity to express my gratitude to the Prime Minister's Office, the IT and State's Store Department of the Ministry of Finance and to the Director of Government's Printer himself, who has given his personal support and advice in the initial implementation of the entire project.

At this juncture, I would also like to offer our assistance to the Judiciary in this area as I believe that cooperation in the IT development can bring mutual advantage to both the Chambers and the Judiciary.

As we have now seen that the Internet has given us vast amount of knowledge and information literally at our fingertips, I personally see that the real challenge in this so called knowledge-based economy is how we can manage knowledge itself. Personally, I believe that the formula to this "knowledge management" would involve finding the most efficient and effective ways of extracting personal knowledge or information and converting them into "an organisational knowledge". This is where I see that Information Technology and the innovations that come with it becomes the real answer to this challenge.

As Your Lordship had earlier indicated that my Chambers had managed to shorten the delay in prosecutions. This is largely credited to the effort of the DPPs in the Crime Division of my Chambers who sometimes had to endure longer working hours and the regular consultations that we have with the law enforcement agencies in ensuring that delays are avoided. Although this will

remain as a continuing exercise, I must however stress that external factors like delay in receiving Forensic Expert Report which is normally acquired from outside the country and the unavailability of these expert witnesses to give evidence may still cause such delay. Until such a time Brunei has its own experts, such delay may still occur.

Legislation to protect the less fortunate and defenceless

My Lord,

It has often been said that in whatever goals in any given society, to achieve peace and stability, to achieve a better social and economic environment and greater prosperity to its citizens- the law is an essential tool to achieving them. We need laws to define the people's rights and obligations and establish the ground rules for business transactions and individual rights. A good law that meets these requirements will provide a solid basis upon which to build for the future.

In the era of globalisation and in an ever-increasing borderless world, we need laws that are seen to be a facilitator rather than as an impediment or we risk being marginalized. We need laws that can remove barriers because once barriers are removed, the society will open itself to creative activity and greater economic activity where everyone can benefit.

However, good laws must be accomplished without sacrificing the moral and the religious values we uphold and our obligations to the defenceless and the less fortunate.

In this context, **The Children Order, 2000** is one of the most important legislation passed last year with a primary aim to reduce the incidence of child abuse in the country. The law provides the setting up of an inter-agency Action Team on Child Abuse for the purposes of coordinating locally based services to families and children where the children are or are suspected of being in need of protection.

Legislation to protect the consumers and society

In the context of consumer protection, the Emergency (Public Health) (Food) Order 1998 and its subsidiary legislation, the Public Health (Food) Regulations, 2000 came into effect on 1st January 2001. The legislation is in general intended to ensure that all types of food sold in the country are fit for human consumption.

Legislation to protect the environment

In the context of protecting our environment especially in preserving our rain forest, the punishment against illegal logging and various other illegal activities under the Forest Act has been increased. This move is appropriate in line with our effort to promote Brunei as an eco tourist destination.

Ways Of The Future

Continuing Legal education

My Lord,

In order for our legal service to remain relevant in the face of the new challenges of this century, I firmly believe that new ways have to be explored in ensuring that all the legal practitioners in Brunei are better equipped with new knowledge in the new areas of the law.

New legal areas such as in offshore finance and banking, Islamic/Syariah Law, Islamic banking and financing, cross-border work, intellectual property, electronic commerce and World Trade Organisation (WTO) work are amongst the many emerging new legal areas where legal expertise would have to be acquired. This new knowledge can only be acquired through a learning process. Therefore, we should consider making it compulsory for a continuing legal education amongst our legal practitioners. If the legal practitioners equip themselves with this new knowledge, they can themselves become a truly global legal service provider.

In this respect, I would like to mention that the University of Brunei Darussalam has introduced a Diploma in syariah law and I would encourage more legal practitioners to take up this course. As the Government have an ambitious plan to be one of the leading Islamic Financial Centre under the BIFC (International Financial Centre) initiative, such new legal knowledge would be an added value to all legal practitioners, more so when the Islamic financial system has gained a foothold in the global financial market.

Conclusion

May it please Your Lordship, that 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.

I would also like to thank the Commissioner of Police and his officers as well as the other law enforcement agencies for their assistance and cooperation and in their continuing effort in the preservation and the maintenance of Law and Order. In conjunction with the Visit of Brunei Year, 2001, we will together make sure that Brunei Darussalam continues to be a peaceful, safe and liveable place for those who are here including our tourists.

Finally may I take this opportunity with Your Lordship and to everyone present this morning a successful and prosperous 2001.