

**CHIEF JUSTICE'S SPEECH FOR THE
OPENING OF THE LEGAL YEAR 2017**

FRIDAY, 13 JANUARY 2017

BISMILLAHIRRAHMANIRRAHIM

Assalamualaikum and Good Morning.

On behalf of the Judiciary, it is both a pleasure and a privilege to welcome all of you this morning to our ceremonial Opening of the Legal Year 2017. We are especially honoured to have as our guests this year:

**The Honourable Prof. Dr. H Mohammad Hatta Ali, SH, MH
Chief Justice of the Supreme Court of the Republic of
Indonesia**

**The Honourable Prof. Dr. Arief Hidayat SH., MS.
Chief Justice of the Constitutional Court of the Republic of
Indonesia
and Mrs. Toendjoeng Herning Sitaboena**

**The Honourable Chief Justice Sir Salamo Injia, Kt GCL
Chief Justice of Papua New Guinea**

**The Honourable the Chief Justice Sundaresh Menon
Chief Justice of Singapore**

**YB Dato' Sri Azalina binti Othman Said
Minister in the Prime Minister's Department**

**The Honourable Justice Agung Sumantha, SH., MH.
Justice of the Supreme Court of Indonesia**

**The Honourable Justice Nakharin Mektirat
Justice of the Constitutional Court of Thailand**

**YBhg. Tan Sri Dato' Sri Khalid Abu Bakar
Inspector General of Police**

His Excellencies Ambassadors and High Commissioners

**YBhg. Datin Paduka Zauyah Be T. Loth Khan
Solicitor General II, AGC representing the Attorney General
of Malaysia**

Secretary-Generals, Deputy Secretary-Generals of the Ministries and Heads of Governments' Agencies, Departments and Commissions

Presidents of the Malaysian Bar, Sabah Law Association and Advocates Association of Sarawak,

Presidents and Representatives of the Foreign Bar/Law Societies,

Deans and lecturers of law schools, judicial and legal officers, members of the Bar, members of the media, law students,

Ladies and gentlemen,

Elevations

[1] I would like to commence by introducing our newly elevated judges and judicial commissioners.

[2] The past year, 2016, saw a great many elevations at all levels of the judiciary, as well as some retirements. It gives me considerable pleasure to announce that Justice Balia Yusof Wahi and Justice Aziah Ali were elevated to the Federal Court. I also congratulate Tan Sri Jeffrey Tan

on his re-appointment as a Judge of the Federal Court for a term of two years.

- [3] The Court of Appeal also saw new elevations, namely Justices Zaleha Yusof, Kamardin Hashim, Mary Lim Thiam Suan, Yaacob Md Sam, Zabariah Mohd Yusof, Hasnah Mohammed Hashim, Harminder Singh Dhaliwal, Justice Abdul Karim Abdul Jalil and Justice Asmabi Mohamad. I wish them every success in their new appellate careers.
- [4] At the High Court level five Judicial Commissioners were elevated as High Court Judges, namely Justices Siti Khadijah S. Hassan Badjenid, Mohd Zaki Abdul Wahab, S. Nantha Balan a/l E.S. Moorthy, Abu Bakar Jais, and Che Mohd. Ruzima Ghazali.
- [5] Finally, there were four new Judicial Commissioners appointed in 2016, namely Justices Khadijah Idris, Ismail Brahim, Tun Abdul Majid Tun Hamzah and Azmi Abdullah.
- [6] On behalf of the Judiciary I warmly welcome them to the High Court Bench.

[7] Our judiciary now comprises fifteen (15) Judges of the Federal Court, twenty-nine (29) Judges of the Court of Appeal, fifty-two (52) Judges of the High Court and thirty-seven (37) Judicial Commissioners.

Retirements

[8] I would be remiss not to mention the notable judges who retired in the course of 2016, having contributed significantly to the Judiciary. They are Tan Sri Dato' Seri Abdull Hamid bin Embong, Judge of the Federal Court, Dato' Abdul Aziz bin Abdul Rahim, Judge of the Court of Appeal, Dato' Seri Mohd Zaki bin Md Yasin, Judge of the High Court, and two Judicial Commissioners, namely Dato' Mat Zara'ai bin Alias and Datuk Dr. Sabirin bin Ja'afar.

[9] It is with a sense of loss that I express, on behalf of the Judiciary, our gratitude and appreciation for their hard work on the Bench over numerous years, which is marked by the judgments they have handed down over that period.

Introduction

[10] This year, the opening of the legal year is of exceptional significance to me, as it marks the culmination of my tenure as the Chief Justice of the Judiciary. In as much as it marks the end of a chapter in the judicial history of Malaysia, it signals the beginning of a new era in our continuing judicial narrative. Notwithstanding the changes that will inevitably ensue, and the legal challenges that must follow, the other arms of government, the legal profession, and indeed the citizens of the nation may rest assured that the Judiciary will remain a bulwark of strength, continuing to protect, preserve and strengthen the Rule of Law, ensuring that it endures through time.

[11] In line with this year's theme, my speech this morning will focus significantly on the environmental rule of law.

The Rule of Law

[12] In my speech last year I alluded to the fact that the rule of law defies precise definition. It is a concept, which has been described as one *“that resonates across borders and boundaries while reflecting a diverse set of perspectives*

rooted in societies' culture, history, politics, institutions and conceptions of justice."¹

[13] At its core however, it may be said that the rule of law is a means of ordering society. It includes state-citizen relationships, systems of rules and regulations and the norms that infuse them, as well as the means of adjudicating and enforcing such rules. The substance of values, rules and their application vary deeply across cultures and contexts.² The inexplicable singularity of the rule of law, certainly from my point of view, is its ability to encompass and embrace this diversity of culture, history, politics and conceptions of justice such that it is, in reality, a multi-dimensional concept, that is inextricably linked to the values, norms and politics espoused by a nation state or region. Its importance cannot be overemphasized, given the powerful role it plays in the development and sustainability of a nation-state³.

[14] One of the significant, if not the central, features of the rule of law is its relationship with justice. Often, the generally

¹ See Background Paper: Overview on the Rule of Law and Sustainable Development for the Global Dialogue on Rule of Law and the Post -2015 Development Agenda by Louis-Alexandre Berg and Deval Desai of Georgetown and Harvard Law School respectively.

² See *ibid* at page 5

³ See above at pages 6 and 7

accepted definition finds its roots in legal philosophy from the global north. We have inherited the common law system from England, and to that extent the norms of the rule of law systems we inherited include the way in which our political system is ordered, as well as a series of institutions that maintain the “rule of law”.⁴ The Judiciary’s pivotal role as one of the pillars that upholds the rule of law is undeniable. In Malaysia therefore, the rule of law reflects not only the basic tenets of the English common law, but incorporates our unique culture and traditions, which subsisted well before colonial rule.

[15] Judicial independence both institutional and personal, comprise key elements of the rule of law in relation to justice. In the performance of our role, the courts strive with the other key stakeholders, namely the legal profession and the judicial and legal services, to ensure that justice is administered fairly and plainly, so as to facilitate the welfare and well being of the population. The law and the administration of the law are not designed to obstruct or

⁴ See *ibid* at page 6 taken from Rosseau, J-J. (ed Gourevitch, V) (1997), *The Social Contract and other later political writings*. Cambridge University Press; Posner, E (2002), *Law and Social Norms*, Cambridge, MA: Harvard University Press; Posner R (1983), *The Economics of Justice*. Cambridge, MA: Harvard University Press; Sen, A 2009 *The Idea of Justice*. Cambridge, MA: Harvard University Press; Sandel, M (1998), *Liberalism and the Limits of Justice*. Cambridge, Cambridge University Press; Dworkin, R (1986), *Law’s Empire*. Cambridge, MA: Harvard University Press; Nozick, R (1974), *Anarchy, State and Utopia*. New York: Basic Books.

obliterate the activities and lives of the general populace. On the contrary, our objective is to improve the lives of our citizens, so as to enable them to live with dignity, within our prevailing laws. It is our duty to ensure unhindered access to justice for all citizens, and to enforce the laws of the land equitably and transparently. Inherent in these functions is our paramount duty to be independent, impartial and incorruptible.

Correlation between the Rule of Law, the Environment and Sustainable Development

[16] Permit me to touch briefly on the Correlation between the Rule of Law, the Environment and Sustainable Development

[17] As I stated earlier, the rule of law encompasses a myriad of elements. Yet it remains indefinable. This is because the list of elements is, in a sense, infinite. The rule of law remains a multi-faceted concept. Ultimately however the rule of law is not a goal in itself. Instead, it is essential in the pursuit of the development of a nation state, not only politically or economically, but for the welfare and well being of the populace.

[18] The right to development has long been recognized. Article 1 of The Declaration on the Right to Development, 1986⁵ asserts that “The right to development is an inalienable human right.” This principle has been accorded recognition internationally.⁶ However it is equally recognized that the protection of the environment is similarly a part of the human rights doctrine. The balance between these seemingly opposing rights, is simply this, namely that while all people have the right to pursue development and enjoy its benefits, that right is neither absolute nor unfettered. It is necessary to ensure that they do not cause significant damage to the environment. In short, development should be in harmony with the environment, and cannot be pursued so as to substantially damage the environment. This principle, also recognized as a principle of international law is embodied in the concept of sustainable development.⁷.

⁵ The Declaration on the Right to Development is a UN Document. It was adopted by the General Assembly by resolution 41/128 of 4 December 1986

⁶ See *Gabcikovo-Nagymaros Project, Hungary v Slovakia* [1997] ICJ Rep 7 at paragraphs 23-36 of the separate concurring opinion of the Vice-President Weeramantry (often referred to as the “Hungarian Dams” case)

⁷ *Ibid* at paragraph 23 onwards

Protection and Conservation of the Environment

[19] The concept, indeed the principle of the maintenance and conservation of the environment is not new. It traces its roots back to ancient wisdoms, religions and numerous cultures.

[20] The Qur’anic verse in **Surah Al-Baqarah verse 164** extols as follows:

“In the creation of the heavens and earth; in the alternation of the night and the day; in the ships that sail the seas with goods for people; in the water which God sends down from the sky to give life to the earth when it has been barren, scattering all kinds of creatures over it; in the changing of the winds and the clouds that run their appointed courses between the sky and earth:- there are signs in all these for those who use their minds...”⁸

[21] A saying of the Holy Prophet is as follows:

“The world is beautiful and verdant, and verily God, be He exalted, has made you His stewards in it, and He sees how you acquit yourselves.” (Muslim).”

⁸ See “The Qur’an A new translation by M.A.S. Abdeel Haleem – Oxford World’s Classics at page 18 verse 164

[22] Mahatma Gandhi said:

“The earth, the air, the land and the water are not an inheritance from our forefathers but on loan from our children. So we have to handover to them at least as it was handed over to us.”

[23] The Taoist doctrine says:

“If the pursuit of development runs counter to the harmony and balance of nature, even if it is of great immediate interest and profit, people should restrain themselves from it. Insatiable human desire will lead to the over-exploitation of natural resources. To be too successful is to be on the path to defeat.”

[24] And moving on to more modern times, Al-Gore when delivering his Nobel Lecture in 2007 stated:

“The future is knocking at our door right now. Make no mistake, the next generation will ask us one of two questions. Either they will ask: “What were you thinking; why didn’t you act?”

“Or they will ask instead: “How did you find the moral courage to rise and successfully resolve a crisis that so many said was impossible to solve?”

[25] That choice is one that lies within our control, both individually and as collective nation states.

Sustainable Development

[26] The concept of sustainable development may be traced back to international forums dating from the 1970's. From that time on it has received endorsement from the international community.

[27] And as stated at *The Rio +20 Conference on Sustainable Development Outcome Document 2012*:

“Democracy, good governance and the rule of law, at the national and international levels, as well as an enabling environment, are essential for sustainable development, including sustained and inclusive economic growth, social development, environmental protection and the eradication of poverty and hunger.”

The Environmental Rule of Law

[28] This aspect of the rule of law is referred to as the “**environmental rule of law**”. While it has not been formally defined, as is the case with other aspects of the rule of law, the following analysis of the fundamental elements requisite to encapsulate the concept include⁹:

“(i) A system of laws that regulate, as far as is feasible and practicable, all human induced actions that by themselves or collectively have a significant impact on the environment;

(ii) Consistent application of these laws over time and throughout the jurisdiction;

(iii) Effective and fair enforcement against those who break the law, regardless of the offender’s socio-economic or political status.”

[29] This definition immediately highlights the key role of the judiciary in implementing the environmental rule of law. A core duty is to safeguard and uphold our constitutional guarantees, which must include the right to a clean environment both for the present generation and the future

⁹ See “The Role of Philippine Courts in Establishing the Environmental Rule of Law” by Elizabeth Barrett Ristroph published in the Environmental Law Reporter 42 ELR 10866 9-2012. Copyright 2012 Environmental Law Institute, Washington DC.

of unborn generations, not forgetting our wildlife and other life systems, which form part of our eco-system.

[30] While our Federal Constitution does not specifically provide for such a right, it is implicit in Article 5, which guarantees the right to life. The word “life” has been accorded a broad and liberal interpretation in our case law as explained in the case of **Tan Teck Seng v Suruhanjaya Perkhidmatan Pendidikan & Anor [1996] 2 CLJ 771 at 800** where Gopal Sri Ram JCA (as he then was) stated as follows:

*“.....I have reached the conclusion that **the expression “life” appearing in Article 5(1) does not refer to mere existence. It incorporates all those facets that are an integral part of life itself and those matters, which go to form the quality of life. Of these are the right to seek and be engaged in awful and gainful employment and to receive those benefits that our society has to offer to its members. It includes the right to live in a reasonably healthy and pollution free environment.....”***

[31] Notwithstanding this generous and accurate analysis of the definition to be accorded to the word 'life', it would be ideal if our Federal Constitution is amended to expressly include a right to a clean and healthy environment as is found in numerous other modern constitutions.

[32] After all, the environment and its preservation is an ancient wisdom that has comprised an integral part of our culture and society for hundreds of years.

[33] Insofar as environmental legislation is concerned we have, in Malaysia, no less than thirty-eight statutes and ordinances, as well as a sizeable quantity of subsidiary legislation, regulations and Orders relating to the environment. Our fundamental statutes include the Environmental Quality Act 1974, Protection of Wildlife Act 1972 and the National Forestry Act 1984. Apart from this our international environmental obligations comprise another important source of environmental law.¹⁰

¹⁰ See Environmental Law in Malaysia by Maizatun Mustafa Published by Wolters Kluwer Law & Business

The Progress Made by the Judiciary in enhancing the Environmental Rule of Law

[34] I turn now to consider the progress made by our Judiciary in enhancing the environmental rule of law.

[35] In 2011 at the inception of my appointment as the Chief Justice of Malaysia, I attended the roundtable conference for ASEAN Chief Justices on the environment in Jakarta. The objective was to develop a common vision on the approach to be adopted by the Judiciaries in shaping the rule of law to the challenges we face in the region. This was termed the “Jakarta Common Vision”.

[36] The deliberations at the 2011 Jakarta meeting highlighted the role that the Judiciary could play in upholding and enforcing our environmental laws.

[37] The lack of cognizance of the significance of environmental protection, and the dearth of education and sensitivity in this respect is borne out by a comparison I drew in my inaugural speech at the Opening of the Legal Year ceremony in 2012. I referred to the disparity between sentences meted out by our courts in relation to environmental offences. You may recall the contrast I drew. A man in Tumpat, Kelantan who

was convicted for being in illegal possession of a dead tiger, a protected species, was fined a mere RM7,000-00 in 2005, while a man convicted for the theft of 11 cans of “Tiger Beer” and “Guinness Stout” worth RM70 in 2010 was sentenced to five years imprisonment. It illustrates just how misplaced our value system was then, as well as how little exposure and awareness there was amongst our magistrates and judges.¹¹ With the implementation of our environmental courts, our training programmes and our national strategy workgroups, these attitudes have, hopefully, changed.

[38] I was therefore impelled to first deliberate upon, and then establish the environmental court for our jurisdiction. Vide Practice Direction of the Chief Registrar No. 2/2012, the environmental courts became a reality. Initially some 42 Sessions Courts and 53 Magistrates’ Courts were assigned as environmental courts nationwide. Although the jurisdiction of these courts was confined to criminal cases, the scope of their enforcement function was wide, spanning 38 Acts and Ordinances and 17 Regulations, rules and Orders.

¹¹ See Tun Arifin Zakaria’s Opening of the Legal Year Speech 2012 at paragraph 48, page 25

[39] Subsequently on 1 January last year, Special Environmental Courts for civil matters were established throughout Malaysia. The High Courts, Sessions Courts and Magistrates' Courts in all 13 states have been assigned to hear civil environmental cases. The object of implementing a nationwide system at multiple levels in the court hierarchy is to ensure that access is available to the population at large to lodge grievances or file claims seeking redress for a wide range of complaints. It is my hope that in the not too distant future, environmental case-law handed down by our courts will add, in incremental stages to a corpus of environmental law that conserves our distinctive land, as well as contributes to international environmental law.

[40] In 2012 we hosted and co-organized the 2nd ASEAN Chief Justices' Roundtable on Environment and Enforcement in Malacca. From this meeting, the ASEAN judiciaries agreed to establish a technical working group of judges from each ASEAN judiciary, to formulate a consensus on the terms of the memorandum of understanding towards attaining the Jakarta Common Vision.

[41] This was followed by our co-organization of the 1st Asia and Pacific International Colloquium on the Environmental Rule of Law – Defining a New Future for Environmental

Justice, Governance and Law in Putrajaya, in 2013. The colloquium culminated in the issuance of the Putrajaya Statement. The statement reaffirms the concept of the environmental rule of law and highlights the importance of this aspect of the rule of law in relation to sustainable development goals. It supports the realization of all other goals and fairness to future generations. The Statement also identifies the constituent elements of the environmental rule of law to include, inter alia, adequate and implementable laws, access to justice and information, public participation, accountability, transparency, liability for environmental damage, fair and just enforcement and human rights.

[42] The outcome of this meeting amounted in effect to the first step towards building, through a regional process led by UNEP, global consensus on the precise benchmarks for the further development, implementation and measurement of the environmental rule of law.

[43] In recognition of our interest and participation in the environmental rule of law, I was honoured, on behalf of Malaysia, to have been appointed as Co-Chairperson of the World Congress on Justice, Governance and Law for Environmental Sustainability in 2012 in Rio de Janeiro,

Brazil which was held on the sidelines of the Rio + 20 Summit.

[44] The country was further honoured by my appointment as a member of the International Advisory Council for Environmental Justice under the United Nations Environment Programme in 2013 and this continues to date.

[45] To further enhance and educate the members of the Judiciary and the Judicial and Legal Service, we established the National Judicial Working Group on the Environment in 2015. Its function is to implement the Jakarta Common Vision and the Hanoi Action Plan.

[46] This concept has been filtered down to the State and District level by the establishment of similar judicial working groups on the environment, so as to encourage a proliferation of knowledge to all levels of the Judiciary. These working groups have organized numerous environmental related activities.

[47] Ultimately we in Malaysia hope to follow in the footsteps of nations like India and the Philippines who have made giant strides in environmental law and enforcement.

The Past Year, 2016

[48] Permit me to now touch on the events of the past year.

[49] This last year has, as always, been a challenging one for the Judiciary. We have been faced with adjudicating upon issues as far ranging as:-

- (i) religion and conversion rights which look set to continue through the current year;
- (ii) disputes testing the constitutionality of newly introduced statutes such as SOSMA;
- (i) the constitutionality of specific sections in older statutes, not to mention other public law litigation;

[50] Issues of this nature affect not only those parties directly before the court but carry considerable significance to the population of the nation as a whole.

[51] Notwithstanding that these issues are weighty, and that the results of adjudication have given rise to both criticism and unhappiness on the one hand, as well as approval and acclaim on the other, judges remain cognizant of their continuing constitutional duty to exercise their judicial powers so as to ensure that litigants are given an opportunity

to be heard, and that justice is dispensed *vide* their judgments, after according mature consideration to the dispute and arguments raised. This is the core of our judicial function and we continue to strive to improve the system and ourselves further, in order to enhance the rule of law.

Workload of the Courts

[52] In terms of performance, the judges at all levels have, largely, performed admirably. The appellate courts have maintained their efficiency levels as per previous years.

[53] The High Court judges and Judicial Commissioners have a significant task in managing their case loads efficiently within specific time frames, but with no slack in terms of considering all salient issues and the law. They too have also performed commendably, by and large.

[54] Equally, the Sessions Court Judges, who, like the High Court, carry a heavy load in terms of adjudication by trial, have made good progress with their disposals in 2016. The Magistrates Courts too have performed as well as they have in the past five or so years

Federal Court

[55] More specifically, in the Federal Court a total of 702 leave applications were registered, showing an increase of 16% compared to the previous year. The Federal Court succeeded in disposing a total of 762 leave applications out of 1281 pending, leaving a balance of 519. For the record, a total of 168 leave applications were allowed in 2016 that is 22% of total leave applications disposed of.

[56] As for civil appeals, 155 cases were registered in 2016 showing a decrease of 2% compared to the previous year. Disposal amounted to 157 civil appeals out of 361 pending.

[57] With respect to criminal appeals there were 256 registrations showing a decrease of 8% compared to previous years. 293 criminal appeals were disposed of out of 359 pending cases.

[58] The Federal Court produced 29 reported grounds of judgment in the course of 2016.

Court of Appeal

[59] In the Court of Appeal in 2016, the registration of cases showed an increase of 20% compared to the previous year for both civil and criminal appeals.

[60] A total of 4,091 appeals were disposed against 4,481 cases registered, resulting in a disposal percentage of 92%.

[61] In the Court of Appeal, all matters are current save for 7% of the case load, which balance is expected to be completed by March this year.

[62] In the same period, Judges of the Court of Appeal produced 465 reported grounds of judgment of which 284 grounds were in respect of civil appeals and 181 grounds were in respect of criminal appeals.

High Court

[63] The High Court of Malaya achieved a disposal rate of 67%, while the High Court in Sabah and Sarawak achieved a disposal rate of 65.3%.

Subordinate Courts

[64] Similarly the Subordinate Courts in West Malaysia achieved a disposal rate of 85.6% while a disposal rate of 85.34% was reached by the Subordinate Courts in East Malaysia.

Improving the Administration of our Courts and Capacity Building

[65] Some of the other developments that have been implemented in the Judiciary during my tenure, from September 2011 to date include:

(1) The Establishment of the Judicial Academy

[66] It was set up under the auspices of the Judicial Appointments Commission. In house training has, and continues to be conducted by judges for judges. The Academy has also invited foreign judges from time to time to share their experiences and knowledge on specific areas of the law. It has also organized outreach programmes held variously in Taman Negara, Cameron Highlands and Kundasang respectively. These programmes were also

aimed at bringing judges closer to nature and to raise awareness on the significance of the environment.

(2) The introduction of the integrated Rules of Court 2012

[67] We also introduced the integrated Rules of Court 2012. A committee comprising the Bench, the Bar and the Attorney-General's Chambers had for some time been carrying out work to simplify and bring about a common set of rules of court for both the High Court and the Subordinate courts. Work on this was completed in 2012, and the Rules of Court were brought into force on 1st August 2012. The rules have now been in force for four and a half years and have achieved the objective of making litigation less complex and technical.

(3) The Creation of Specialised Courts

(a) Environmental Court

[68] I have already spoken about the background to the creation of the environmental court. Several other specialist courts were established between September 2011 and 2016.

(b) Anti-Profiteering, Goods and Services Tax Court

[69] With the coming into force of the Goods and Services Tax Act 2014 on 1 April 2014, specialized courts were established throughout Malaysia to deal with cases falling within the purview of the statute. It assists in expediting the disposal of GST related cases.

(c) Anti-Terrorism Court (ATC)

[70] The Anti-Terrorism Courts were specifically set up to handle cases related to extremism, such as the Islamic State (IS) militancy, as well as security matters. Five judges of the High Court, four in Kuala Lumpur and one in Sabah have been selected and assigned to hear these cases. The setting up of this dedicated court in 2016 has helped to expedite the trial process and to curb the spread of extremism and threat of militancy in this country.

(d) Construction Court

[71] The Construction Court was set up in April 2013 at the behest of the Construction Industry Development Board (CIDB) and the Bar. As construction is one of the major segments that contribute to the growth of the Malaysian economy it was felt that a specialized court would be beneficial to the industry. This would assist in expediting the disposal of construction industry cases. These

specialized courts are located at the Kuala Lumpur Court Complex and the Shah Alam Court Complex. The courtrooms are substantially modeled after that of the Technology and Construction Court in London. They are equipped with suitable electronic and visual aids and other improved facilities specifically to facilitate the hearing of construction matters. In January 2016, an equivalent appellate court was set up at the Palace of Justice specifically to hear construction appeals.

(e) Coroner's Court

[72] Due to widespread public concern over the increase in custodial deaths, the Judiciary established 14 dedicated Coroners' Courts in April 2014. These courts were tasked with independently inquiring into the circumstances under which persons had died. Fourteen senior Sessions Court Judges were appointed throughout Malaysia as coroners. These cases are expected to be disposed within a nine month timeline. A coroner is assisted by a medical doctor in completing his work.

(f) Cyber Court

[73] The Cyber Court was set up on 1 September 2016. The court, which is located in the Kuala Lumpur Court complex, specializes in hearing cyber criminal cases. This includes

bank fraud, hacking, falsifying documents, defamation, spying, online gambling and cases related to pornography. These courts are essential to address the increasing number of cyber crime offences. While the court is currently restricted to hearing criminal cases, it will soon expand to cover civil cases.

(g) Fast Track for Street Crime Offences

[74] The Judiciary introduced the fast track proceedings at the subordinate courts for street crime offences which include cases involving robbery, mugging, snatch theft, hit and run accident and cheating on taxi fares. The nature of these crimes, have a direct impact on public safety and foreign tourists. Vide Practice Direction No. 1 of 2015 issued by the Chief Judge of Malaya the timelines for the disposal of these cases is stringent.

(4) Issuance of Press Summaries of the Grounds of Judgment of the Federal Court

[75] Since 2012, the Federal Court has started issuing press summaries of the grounds of judgment of the court. The primary purpose was to assist the public to comprehend the

reasons for our decision. It was a part of our efforts to make the judicial process more transparent.

(5) Enhancing the Use of Technology in the Court Delivery System

[76] The current E-Court systems face critical challenges as the usage of the system has grown significantly since its implementation in 2009. This has been addressed through the progressive implementation of E-Court Phase II. This phase is equipped with new features that will benefit the stakeholders.

[77] Currently only eight sites enjoy the use of the E-Court system, with Phase II, such use will be extended throughout Peninsular Malaysia. The system is also to be extended to both the High Courts and the Subordinate Courts.

[78] E-Court Phase 2 have additional modules which are not available in Phase 1. Those modules include online filing for criminal matters and Power of Attorney, appeal module for the Court of Appeal and Federal Court, e-Lelong, integration with Bar Council for Practising Certificate Module, as well as system integration with PDRM, JPJ, JKPTG, Insolvency Department and JPN. We do however

require more funding to update these systems to better serve the public.

[79] The E-Bidding system will be developed to replace the manual public auction process in court and is to be launched in 2017. It is expected to make the bidding process more transparent as it will be open to more prospective bidders. Importantly this system is expected to eliminate any syndicate that seeks to interfere with the bidding process, which could lead to artificial pricing at the expense of the chargors.

(6) Establishing the Inns of Court Malaysia

[80] The Inns of Court, Malaysia was established on 10 November 2016. It is a professional membership body comprising judges, lawyers, jurists, legal academics and other legal professionals from all backgrounds. The ICM, as it is known strives to be “*A Home for the whole spectrum of Law Professionals*”.

[81] Like the Inns of Court in the United Kingdom and the United States of America, ICM serves as a venue for talks, dining sessions and law libraries, designed for members to share and discuss their views on legal issues.

(7) The Journal of the Malaysian Judiciary

[82] In 2016, the Judiciary also launched a publication entitled the Journal of the Malaysian Judiciary. Issues are published quarterly. The objective is primarily to enable our judges to author and publish articles in areas of the law that are of interest to them, as well as papers they have delivered at conferences and seminars. This is the first step towards the creation of the Judiciary's own publishing line, where judges may choose to author a variety of publications ranging from monographs to books on particular areas of the law.

International Engagement

[83] In terms of international engagement, some of the significant developments that have transpired include for example the formation of the Council of ASEAN Chief Justices ('CACJ'). This Council, formerly known as the ASEAN Chief Justices' Meeting, was conceived by The Right Honourable Chief Justice of Singapore, Sundaresh Menon, in 2013. The objective was to provide a forum for the ASEAN Chief Justices to hold discussions on common concerns of ASEAN judiciaries and engender mutual

cooperation. I was honoured to be one of the pioneer Chief Justices who participated in the founding of this Meeting of Chief Justices, as I attended the Inaugural Meeting in 2013.

[84] In 2014, again I was honoured on behalf of Malaysia to be appointed as the Chair of the Council when we hosted the second ACJM in Kuala Lumpur.

[85] At its 3rd meeting in the Philippines, Working Groups were formed to participate in judicial training and education, case management, court technology, cross-border disputes involving children and civil processes, as well as the ASEAN Judiciaries Portal (‘AJP’) project. Malaysia has been tasked to lead the Service of Civil Processes within the ASEAN Working Group to facilitate the service of civil processes within ASEAN. We have also been asked to lead the court technology and case management aspects of this harmonization programme.

Support for the Asean Legal Information Centre (Asean LIC)

[86] The Malaysian Judiciary also supports the Asean LIC, a regional movement led by the University of Malaya and MKMS. The Asean LIC aggregates and publishes Asean legal information from judgments and legislation to legal

news, reports and articles. The objective is to facilitate free, easy and meaningful access to Southeast Asian legal materials. This will contribute towards a better understanding within ASEAN of our varying laws and legal trends and promote the harmonization of Asean laws.

Conclusion

Ladies and Gentlemen,

Improving the Quality of Judgments

[87] When I took my oath of office as the Chief Justice, one of my main goals was to improve the quality of judgments handed down. My predecessor, Tun Zaki Tun Azmi, had, with his transformation plan, which was executed admirably, efficiently cleared the backlog of cases that had plagued the courts in Malaysia for decades. My task was to take the next step of improving the quality of judgments at all levels of the Judiciary. In short, to “polish the silver”, as it were.

[88] I have sought, with assistance from my brother and sister judges at the Federal Court, to “polish the silver”, by way of further judicial education and appraisal, amongst

other methodologies. Suffice to say that while there has been improvement, the goal remains a work in progress. I trust that my successors will continue to put in place steps towards achieving that goal. Ultimately I hope we will see a time when our judgments are read and applied, not only locally, but also internationally.

Progress of the Environmental Courts and the Law

[89] It also remains my hope that that the Judiciary will continue to embrace the concept of the environment, and its undeniable and irreversible connection with sustainable development. Increased efficiency and enforcement coupled with commensurate punishment, will have a tremendous effect in curbing illegal practices, assisting directly in the protection and conservation of our matchless environment. To this end, I would like to ask my brother judge, Tan Sri Richard Malanjum, who enjoys a similar dedication to the environment, to spearhead the drafting and introduction of a set of Environmental Rules of Court to facilitate and bolster the practice of environmental law in our courts.

[90] That summarizes not only the events of 2016 in our courts, but captures some of the highlights of my tenure.

Integrity and Independence

[91] I trust that the Judiciary will continue to maintain and uphold its integrity and independence, which is crucial to the rule of law and the ultimate well-being, indeed survival of our democracy.

[92] I would like to take this opportunity to extend our sincere appreciation and gratitude to Yang Berhormat Dato' Hajjah Nancy Shukri, the previous Minister in the Prime Minister's Department in charge of Legal Affairs, for her immense support for the Judiciary.

[93] We look forward to working harmoniously with Dato' Seri Azalina, the current Minister in the Prime Minister's Department in charge of Legal Affairs.

[94] Special thanks goes out to the Honourable Attorney-General and the members of his Chambers for their continuous support and co-operation.

[95] Last but not least I must thank Steven Thiru, the President of the Malaysian Bar, and the Malaysian Bar, for their efforts in fostering a close and harmonious working relationship with the Judiciary during my tenure.

[96] I must also acknowledge the co-operation and commitment shown by the Presidents of the Sabah Law Association and Advocates Association of Sarawak and their members, and for this I thank them.

[97] Of special significance to me is of course the unstinting commitment and loyalty shown by the Judges at all levels of the Judiciary. Of equal importance is the dedication and devotion shown by the Judicial Officers and the staff of the Courts in Malaysia. I could not have achieved my aspirations without such unwavering support.

[98] In concluding, I go back to the beginning of my speech, and reiterate that the Judiciary will remain a bulwark for the plural society of our unique nation.

[99] I take this opportunity to wish all of you the very best for a fruitful and progressive year ahead.

[100] Saya akhiri ucapan saya dengan empat rangkap pantun:

*Istana Kehakiman Gah Dijulang
Bangunan Kemegahan Badan Kehakiman
Untuk Menjamin Malaysia Gemilang
Kedaulatan Undang-Undang Jadi Pegangan.*

*Tahun Pembukaan Disambut Gembira
Mari Semua Kita Raikannya
Keluhuran Perlembagaan Asas Negara
Menjadi Tugas Kehakiman Menegakkannya*

*Hembus Pawana Bayu Terasa
Alam Yang Indah Dipandang Mata
Janganlah Kita Membuang Sisa
Kelak Binasa Alam Semesta*

*Indah Malam Tanpa Pelita
Terbang Beramai Si Rama-Rama
Janganlah Lupa Peranan Kita
Persekitaran Indah Tanggungjawab Bersama*

[101] Thank you all for listening.

TUN ARIFIN BIN ZAKARIA
CHIEF JUSTICE OF MALAYSIA
13 January 2017