

SPEECH BY THE ATTORNEY GENERAL OF MALAYSIA
AT THE REFERENCE PROCEEDING IN MEMORY AND
HONOUR OF ALLAHYARHAM TUN ABDUL HAMID BIN
MOHAMAD

Bismillahirrahmanirrahim.

Assalamualaikum warahmatullahi wabarakatuh, Salam Sejahtera dan Salam Malaysia Madani.

Yang Amat Arif, Yang Arif, ladies and gentlemen,

1. Our reflection now turns to the life, contributions and enduring legacy of Allahyarham Tun Abdul Hamid bin Mohamad, whose distinguished service to the law and the Judiciary forms an important part of today's Reference Proceeding.

A Life Dedicated to Public Service

2. Tun Abdul Hamid was born on 18 April 1942 in Permatang Tinggi Bakar Bata, Kepala Batas, Penang. From these

humble beginnings, he went on to devote nearly four decades to the service of the nation. He joined the Judicial and Legal Service in May 1969 and, over the course of his career, served in a range of important capacities, including as a Magistrate, President of the Sessions Court, Deputy Registrar of the High Court, State Legal Adviser, Senior Federal Counsel and Head of the Prosecution Division.

3. His judicial career progressed through successive appointments as Judicial Commissioner in 1990, High Court Judge in 1992, Judge of the Court of Appeal in 2002 and Judge of the Federal Court in 2003. On 5 September 2007, he was appointed President of the Court of Appeal, followed shortly thereafter, on 11 December 2007, by his appointment as Chief Justice of Malaysia. He retired from judicial office on 18 October 2008.

A Jurist Who Shaped Malaysian Jurisprudence

Yang Amat Arif, Yang Arif, ladies and gentlemen,

4. Tun Abdul Hamid's jurisprudential legacy is substantial. Throughout his judicial career, he authored 567 judgments across a wide range of branches of law. His judgments were distinguished by intellectual rigour, clarity and logical precision, qualities particularly recognised within the AGC.
5. His contribution was significant in Islamic law and constitutional law, including the relationship between the civil and Syariah courts. During his tenure as a High Court Judge, he delivered several important judgments concerning *waqf*, apostasy and jurisdictional conflicts between the civil and Syariah courts. Among those were ***G Rethinasamy v Majlis Ugama Islam Pulau Pinang***¹, ***Isa Abdul Rahman v Majlis Agama Islam Pulau Pinang***² and ***Lim Chan Seng v Pengarah Jabatan Agama Islam Pulau Pinang***³.
6. His elevation to the Court of Appeal saw this contribution continue to develop. In ***Daud Mamat v Majlis Agama Islam dan Adat Istiadat Melayu Kelantan***⁴ and ***Kamariah Ali v***

¹ [1993] 2 CLJ 605

² [1996] 1 CLJ 283

³ [1996] 3 CLJ 231

⁴ [2002] 3 CLJ 761

Kerajaan Negeri Kelantan⁵, his judgments further shaped the jurisprudence concerning the respective jurisdictions of the civil and Syariah courts.

7. Upon becoming Chief Justice, his contribution to this area of law reached a particularly significant stage. His judgment in ***Latifah bte Mat Zin v Rosmawati bte Sharibun & Anor***⁶, ***Abdul Kahar Ahmad v Kerajaan Negeri Selangor***⁷ and ***Sulaiman bin Takrib v Kerajaan Negeri Terengganu***⁸ remain important authorities in understanding the constitutional relationship between civil and Syariah jurisdiction in Malaysia.
8. In particular, the case of ***Abdul Kahar Ahmad*** provided important clarity on the constitutional limits of Syariah jurisdiction and affirmed the role of the civil courts in interpreting the Federal Constitution and determining the validity of legislation.⁹

⁵ [2002] 3 CLJ 766

⁶ [2007] 5 MLJ 101

⁷ [2008] 4 CLJ 309

⁸ [2009] 6 MLJ 354

⁹ [2008] 4 CLJ 309 at page 315.

9. These judgments demonstrate a defining characteristic of Tun Abdul Hamid as a jurist: his willingness to confront difficult constitutional and jurisdictional questions with clarity, care and fidelity to the Federal Constitution. In ***Latifah bte Mat Zin v Rosmawati bte Sharibun & Anor***, he succinctly observed that “***both the civil and syariah courts are creatures of statutes and owe their existence to statutes.***”¹⁰ This observation reflects the clarity and discipline with which he approached the respective jurisdictions of the civil and Syariah courts.
10. He further affirmed that “***Interpretation of the Federal Constitution is a matter for this court, not the Syariah Court.***”¹¹ These principles continued to inform his papers and speeches after his retirement and were subsequently brought together in his volume entitled “*Konflik dan Pengharmonian*”¹².

¹⁰ [2007] 5 MLJ 101 at page 116.

¹¹ [2007] 5 MLJ 101 at page 123.

¹² Tun Abdul Hamid Mohamad, *Konflik dan Pengharmonian: Konflik Bidang Kuasa dan Pengharmonian Undang-Undang* (Kuala Lumpur: Penerbit IKIM, 2016).

11. His constitutional reasoning was also evident in ***Public Prosecutor v Kok Wah Kuan***¹³. There, he considered the relationship between the Federal Constitution, Parliament and the courts, including the implications of the amendment to Article 121(1) of the Federal Constitution. His judgment emphasised the importance of determining the jurisdiction and powers of the courts by reference to the Federal Constitution and laws enacted by Parliament.¹⁴
12. In ***Sejhratul Dursina @ Chomel bte Abdullah v Kerajaan Malaysia & Ors***¹⁵, Tun Abdul Hamid addressed questions concerning personal liberty and habeas corpus. The judgment reflected his careful approach to judicial jurisdiction and the limits of legal remedies, while recognising habeas corpus as an important safeguard of personal liberty.
13. Perhaps fittingly, in ***Sulaiman bin Takrib v Kerajaan Negeri Terengganu***, his final judgment as Chief Justice, Tun Abdul Hamid referred to it as his “***farewell judgment***”¹⁶. Those

¹³ [2008] 1 MLJ 1

¹⁴ [2008] 1 MLJ 1 at page 14.

¹⁵ [2006] 1 MLJ 405

¹⁶ [2009] 6 MLJ 354 at page 361.

words marked not merely the conclusion of a judicial career, but the closing of a distinguished chapter in Malaysian jurisprudence, one defined by intellectual rigour, constitutional fidelity and an unwavering commitment to the law.

Beyond the Bench

Yang Amat Arif, Yang Arif, ladies and gentlemen,

14. His contribution extended significantly beyond the Bench. As Kelantan State Legal Adviser in 1981, he was involved in the preparation of the Syariah Criminal Procedure Bill, the Syariah Civil Procedure Bill and the Islamic Family Law Bill. These Enactments were subsequently passed, making Kelantan the first state in Malaysia to implement these comprehensive Syariah laws. He also played an important role in establishing the Penang Syariah Court of Appeal.
15. Tun Abdul Hamid made an equally significant contribution to Islamic finance. In 2002, he proposed that Syariah issues arising before the civil courts and arbitrators in Islamic

banking matters to be referred to the Syariah Advisory Council of Bank Negara Malaysia. The proposal was accepted by the Government and given statutory effect under sections 51 to 58 of the Central Bank of Malaysia Act 2009 [Act 701].

16. This institutional mechanism has since played an important role in promoting consistency and certainty in the determination of Syariah issues arising in Islamic financial disputes. It also reflected Tun Abdul Hamid's ability to bridge the civil justice system with the principles and requirements of Islamic finance. His contribution to this field was further recognised by international scholars, including Yahia Abdul-Rahman in his work entitled "*The Art of Islamic Banking and Finance*"¹⁷.

17. In recognition of his expertise and contribution to the development of Islamic finance, he was subsequently appointed as the first civil court judge to serve on the Syariah

¹⁷ Yahia Abdul-Rahman, *The Art of Islamic Banking and Finance: Tools and Techniques for Community-Based Banking* (Hoboken, NJ: John Wiley & Sons, 2010).

Advisory Council of Bank Negara Malaysia in 2004, a position he held until 2016.

An Enduring Legacy

Yang Amat Arif, Yang Arif, ladies and gentlemen,

18. Tun Abdul Hamid’s legacy extends far beyond the judgments he delivered and the judicial offices he held. It is equally reflected in the wealth of knowledge and scholarship he shared throughout his career and after his retirement from the Bench.

19. His commitment to legal scholarship is also reflected in the eight books he authored, comprising an impressive 4,906 pages, including: ***“I Will Never Beg”***¹⁸, ***“Saya Tidak Akan Melutut”***¹⁹, ***“The Truth Shall Prevail”***²⁰, ***“Hakim Bukan Parlimen”***²¹ and ***“Buat Kerja”***²².

¹⁸ Tun Abdul Hamid Mohamad, *I Will Never Beg* (Kuala Lumpur: CLJ Publications, 2016).

¹⁹ Tun Abdul Hamid Mohamad, *Saya Tidak Akan Melutut* (Ampang, Selangor: CLJ Publication, 2016).

²⁰ Tun Abdul Hamid Mohamad, *The Truth Shall Prevail: Speeches, Papers and Articles* (Kuala Lumpur: Dewan Bahasa dan Pustaka, 2016).

²¹ Tun Abdul Hamid Mohamad, *Hakim Bukan Parlimen: Koleksi Ucapan & Rencana 2016–2020*, ed. Najib Tamby (2021).

²² Tun Abdul Hamid Mohamad, *Buat Kerja* (Kuala Lumpur: Utusan Publications & Distributors, 2017).

20. The significance of his contribution was further underscored by the recognition accorded to his book entitled “*Hakim Bukan Parlimen*”, recipient of the National Book Award (Premier Category) for 2020/2021. In recognising the work, the Chairman of the Panel of Judges aptly described it as “***jelas, tepat dan padat***”.²³
21. His scholarly work and lifelong service were widely recognised through numerous honours. He received the Honorary Doctorates from Universiti Tenaga Nasional (“UNITEN”), Universiti Sains Islam Malaysia (“USIM”), and Universiti Kebangsaan Malaysia (“UKM”). He was also appointed Adjunct Professor by Universiti Utara Malaysia (“UUM”), UNITEN and UKM.
22. His contribution to Islamic finance was recognised through the Lifelong Contribution to Islamic Finance Award 2004 by the Kuala Lumpur Islamic Finance Forum (“KLIFF”). In 2015, he received the National-Level Maal Hijrah Award

²³ Tun Abdul Hamid Mohamad, “About,” *Tun Abdul Hamid Mohamad: The Former Chief Justice of Malaysia*, April 18, 2021, <https://www.tunabdulhamid.my/index.php/about>

1437H/2015M²⁴ in recognition of his contributions to Islam at the national and international levels.

23. Even after leaving the Bench, Tun Abdul Hamid remained actively engaged with issues of judicial independence, the rule of law, the Federal Constitution, the relationship between civil and Syariah law, and the responsibilities of public office. Through his writings, lectures and public engagements, he continued to share his experience and insights with the legal profession and younger generations of lawyers and jurists.
24. Perhaps the simplest expression of his philosophy was his well-known exhortation: “***Buat Kerja.***” To him, public office was never merely a position or an honour; it was a responsibility to work, to serve and to uphold the law. That, ultimately, is the enduring legacy of Tun Abdul Hamid — a legacy of knowledge, principle, service and an unwavering commitment to the law.

²⁴ Jabatan Kemajuan Islam Malaysia, *Laporan Tahunan JAKIM 2015* (Putrajaya: Jabatan Kemajuan Islam Malaysia, 2016), 140.

A Legacy for Future Generations

Yang Amat Arif, Yang Arif, ladies and gentlemen,

25. In remembering Tun Abdul Hamid today, we remember a public servant who rose from humble beginnings to the highest judicial office in the land; a lawyer who served both the Executive and the Judiciary; a judge who confronted difficult questions of law with conviction; and a jurist whose judgments continue to form part of Malaysia's legal heritage.
26. His tenure as Chief Justice may have ended in 2008, but his contribution to Malaysian jurisprudence did not end with his retirement. His judgments continue to be read, cited and discussed. His writings continue to provoke thought, and the principles he articulated continue to form part of the conversation on the Constitution and the administration of justice.
27. Finally, let us pray that Allah SWT grants Mercy and Forgiveness to Allahyarham Tun Abdul Hamid bin Mohamad, and that his soul be placed among the righteous. May Allah

SWT reward his service to the law, the Judiciary and the nation. ***Al-Fatihah.***

28. Allow me to conclude by humbly praying, in the hallowed tradition of the Bar, that this Reference Proceeding, held in honour and memory of Allahyarham Tun Abdul Hamid bin Mohamad, be entered into and preserved in the Court archives. May a copy thereof also be extended to his family.

Thank you.

Wabillahi taufiq walhidayah, wassalamualaikum warahmatullahi wabarakatuh.

THE ATTORNEY GENERAL OF MALAYSIA

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