

RESPONSE BY

**THE RIGHT HONOURABLE
THE CHIEF JUSTICE OF MALAYSIA
TAN SRI TENGKU MAIMUN BINTI TUAN MAT**

AT THE

OPENING OF THE LEGAL YEAR 2020 CEREMONY

**‘MOVING FORWARD
RESHAPING JUDICIAL REFORM – A TRIPARTITE SYNERGY’**

FRIDAY, 10 JANUARY 2020

PUTRAJAYA INTERNATIONAL CONVENTION CENTRE

SPEECH

SALUTATION

BISMILLAHIRRAHMANIRRAHIM.

Assalamualaikum warahmatullahi wabarakatuhu and good morning.

The Honourable Tun Dato' Seri Zaki Tun Azmi,
Former Chief Justice of Malaysia;

The Honourable Tun Arifin Zakaria,
Former Chief Justice of Malaysia;

The Honourable Dr. Usman Awang,
Chief Justice of the Constitutional Court of the Republic of Indonesia;

The Honourable Mr. Justice Sundaresh Menon,
Chief Justice of the Republic of Singapore;

The Honourable Dr. Sunarto,

Deputy Chief Justice of Non Judicial Affairs of the Supreme Court of the Republic of Indonesia, representing the Chief Justice of the Supreme Court of the Republic of Indonesia;

The Honourable Tan Sri Dato' Mohamad Ariff Md Yusof,
The Speaker of the Dewan Rakyat;

Right Honourable and Honourable judges of the Federal Court, Court of Appeal and High Court, and Judicial Commissioners;

The Honourable Tan Sri Tommy Thomas,
The Attorney General of Malaysia;

Your Excellencies: Ambassadors and High Commissioners;

The State Attorneys-General of Sabah and Sarawak;

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

Presidents and Representatives of Foreign Bars and Law Societies;

Distinguished guests, ladies and gentlemen,

1. I would like to begin by expressing my sincerest thanks to all our guests from abroad and locally for making the time to be with us here today. I would also like to take this opportunity to congratulate The Right Honourable Justice Rohana Yusuf on Her Ladyship's appointment as the President of the Court of Appeal and The Right Honourable Justice Azahar Mohamed on his Lordship's appointment as the Chief Judge of Malaya, and to each and every Judge of the Federal Court, the Court of Appeal, the High Court and Judicial Commissioners who were most recently appointed. To all judges who retired in 2019, may I also wish you a very happy and healthy retirement and on behalf of myself and the Judiciary, we extend our deepest gratitude and appreciation for your invaluable service.

INTRODUCTION

2. Ladies and Gentlemen, this is the first Opening of the Legal Year speech that I make as Chief Justice.

3. In this speech I shall firstly set out the philosophy that underscores the Judiciary's basis for its continually evolving reforms. I shall then set out the proposed reforms for the year. In all this, I emphasise the need for a strong collective effort from all the three stakeholders of our justice system.

Law, Justice and the Role of Judges

4. The law permeates all aspects of a citizen's life. A citizen lives in and by the law.¹ It serves both as a sword and a shield. The law ensures that our right to life, to earn a living, to equality before the law, to punish crime, the right to vote and to decide who our government will be, to cite a few examples, are safeguarded. It serves as the foundation for the provision and delivery of justice.

5. In a plural society such as Malaysia with its cultural and religious diversity, justice and the law are of paramount significance. Our social architecture is founded and governed by our Federal Constitution, which is the supreme arbiter and guide for the institutional pillars of the nation as well as every citizen of our country.

¹ See Law's Empire by Ronald Dworkin Hart Publishing, Oxford 1998, Preface.

6. The Judiciary, as the third arm of government, comprises the “instrument” through which these nebulous yet sacrosanct principles and values contained in the Federal Constitution are delivered to the citizens of the nation. Judges bring life to the law, and justice in particular.

7. The Judiciary and the judges therefore serve to fulfil the needs of society for justice through the interpretation and application of the laws of the country in accordance with the principles and values of the Federal Constitution.

8. However, the Judiciary and the individual judges are not the entire repository of justice. They are neither the sole guardians nor custodians of justice within the justice system.

The Role of Lawyers in the Justice System

9. As Fali Nariman, the renowned jurist, stated: “... *if an independent Judiciary is the backbone of the rule of law, as it has been often described, then an independent legal profession is the catalyst that helps achieve it...*”²

10. Lawyers, as guardians of the law, play a vital role in the preservation of society. The fulfilment of this role requires an understanding by lawyers of their relationship with, and function in, our legal system. They are first and foremost, officers of the court. This is a role of paramount importance within the justice system because they assist the court to arrive at a just decision. It is the lawyer who sets out the factual basis for a dispute, the complaint of his client, who conducts the trial in accordance with the principles of natural justice and significantly, provides guidance to the court in relation to the law.

11. In undertaking these duties, a lawyer’s primary and overriding duty is owed to the court. It is therefore of fundamental importance for lawyers to comprehend and accept that while they are agents for their clients who pay them for the work they undertake, their cardinal duty is to ensure that their

² Adama Dieng, ‘Role of Judges and Lawyers in Defending the Rule of Law’ [1997] 21(2) Forham International Law Journal 550, at page 550.

presentation of their client's case and the law is honest, relevant and of sufficient competence to assist a court.

12. In short, lawyers are constrained to maintain the highest standards of ethical conduct. If they fail to abide by these fundamental duties, there is a direct and immediate consequence, namely that the administration of justice is undermined.

Prosecutors and their Role in the Administration of Justice

13. Now, when I mention lawyers, it should also include members of the Judicial and Legal Service, and in this context – legal officers from the Attorney General's Chambers.

14. Chambers play an irreplaceable role in the administration of justice in this country. The purpose of the Attorney General is to serve as the Government's primary advisor. His position therefore ensures that the Government of the day acts in accordance with the law. He also has control and oversight of Chambers, which drafts Bills which ultimately become law. And, where the administration of justice lags, in terms of some deficiencies

in legislation, Chambers have the first hand ability to approach the relevant Minister or officer to have the law amended.

15. Presently, Chambers also undertake prosecution in addition to civil law work. In surveying the role of prosecutors in numerous jurisdictions, Gabriela Knaul, the Special Rapporteur on the Independence of Judges and Lawyers observed as follows:³

“Prosecutors are the essential agents of the administration of justice, and as such should respect and protect human dignity and uphold human rights, thus contributing to ensuring due process and the smooth functioning of the criminal justice system. Prosecutors also play a key role in protecting society from a culture of impunity and function as gatekeepers to the judiciary.”

[Emphasis added]

³ Report of the Special Rapporteur on the Independence of Judges and Lawyers (Gabriela Knaul), 7 June 2012 (A/HRC/20/19), at paragraph 93.

16. As gatekeepers to the judiciary, prosecutors should not seek to secure convictions at the cost of the Rule of Law. Their duty is to ensure that the Rule of Law is upheld.

THE NEED FOR ENHANCED TRIPARTITE SYNERGY

17. In line with this year's theme, 'Moving Forward', my response this morning will focus significantly on how reshaping judicial reform in Malaysia requires a strong tripartite synergy between the Judiciary, the Bar and the Attorney General's Chambers.

Approach to Judicial Reform within the Context of Rule of Law

18. The objective of judicial reform is to continue to achieve and enhance adherence to the Rule of Law, and my focus is on strengthening⁴ judicial independence and the overall efficiency of the judicial system. Independence is centred on the idea that the public remain confident that the Judiciary issues judgments which will be respected by the other arms of

⁴ The World Bank, *Legal and Judicial Reform: Strategic Decisions* (January 2003), at page 2.

Government and other individuals and that justice may easily be obtained without fiscal or other obstructions.

Bolstering Judicial Independence

19. Judicial independence is bolstered by continuously emphasising the need for a judiciary that is free of influence, whether from the other arms of Government, the public, the media or internal pressures. Independence of the judiciary remains an essential and powerful tool for the Rule of Law. And integrity is the core object of any strategy for judicial independence.

20. Because lawyers both at the Bar and in Service comprise an integral part of the administration of justice and have a responsibility to promote the Rule of Law, it follows that they must similarly emulate and possess a strong sense of integrity in their interaction with the Judiciary and the public. Judicial independence alone is insufficient to achieve a justice system that meets the essential components of the Rule of Law. The Bar and Chambers must also remain steadfastly independent.

PROPOSED JUDICIAL REFORMS

21. May I now take you through the Judiciary's proposed reforms. The whole concept of reform requires constant evolution and progression. It cannot be achieved in a short space of time. The reform initiatives by the former Chief Justice, Tan Sri Datuk Seri Panglima Richard Malanjum will continue to be implemented and supplemented by newer reforms.

(A) Judicial Academy

22. An important feature of judicial independence is keeping judges updated with the necessary skills. To draw an analogy, only the sharpest and most durable blades are selected to cut. But it would be remiss to think that even the sharpest blade may go on cutting without being sharpened every once in a while. The same can be said of Judges. To this end, the Judiciary will continue to develop its existing programs in the Judicial Academy to improve the quality and content of its judgments.

23. The Judicial Academy conducts courses for Judges of the Superior Courts in all areas of the law. The courses are largely conducted by the

more senior judges with hands on training. This means that judges actively participate and interact with their peers on various aspects of the law. This serves to expose them to areas of the law that they are less familiar with as well as to apprise them of the latest developments in various fields. We also occasionally invite foreign judges to deliver guest lectures on various areas of the law.

24. Thus far, the Judicial Academy has been operating under the auspices of the Judicial Appointments Commission. Courses are conducted periodically by senior judges and the occasional guest speakers, both overseas and local – on an ad hoc basis, where a senior judge along with his team, had to juggle between his core judicial duties and the duties of planning for judicial courses for judges all over the country.

25. We now propose to revamp the entire structure by introducing legislation to establish a formal Judicial Academy. A draft Bill is ready and will be presented to the Cabinet in due course. A formal Judicial Institute will enable us to introduce more structured facilities including collaboration with other Judiciaries.

26. By establishing a specially structured Judicial Academy, not only do we hope to increase capacity building of Judges by broadening the scope and standard of judicial education but, to also bolster the judicial mind-set that Judges serve, above everything else, the Rule of Law. Therefore, the most important but intangible benefit of formalising the Judicial Academy structure through legislation is to enhance public awareness that continuing judicial education and capacity building is an inherent facet of the judicial function including bolstering the mind-set of Judges, particularly so among newly appointed judges and judicial commissioners, that their inherent role requires them to answer to no one but the Federal Constitution and the law.

(B) Substantive Improvements to the Judicial Machinery

- (i) Revamping the Rules of Court 2012 to enable substantive reform to civil procedure so as to enhance access to justice.**

27. The Judiciary will be implementing changes to the Rules of Court 2012 and recommending amendments to other relevant laws to enable substantive reform to civil procedure, subject to detailed discussions with all stakeholders including the Bar and Chambers.

28. For one, the Courts are working to substantially limit civil appeals in interlocutory cases. Trivial appeals tend to have a “snowball” effect on the efficient disposal of trials as they clog up the system. For example, many cases in the High Court are aging because a single case has so many interlocutory appeals pending at the Court of Appeal and the Federal Court. This is a common feature throughout the country.

29. Applications for summary judgment and striking out are one such example. If the application is dismissed there appears to be no prejudice to the applicant as the case will proceed on the merits. The proposal to limit appeals in this respect is to avoid delays in the full trial of the action. Although at the discussion stage, there was significant resistance from both the Bar and Chambers to the introduction of this new mechanism, the proposal has already been approved at the Rules Committee stage and it only remains to be formalised.

30. Reforms such as this cannot be undertaken by the Judiciary alone. This is where the significance of synergy is extremely pertinent. The Bar and Chambers ought to assist the Judiciary to resolve this issue of significant backlog caused by frivolous interlocutory appeals. The restriction on the right to appeal in these cases do not hamper the final outcome of the case

and instead encourages such cases to be heard on their merits. Restricting appeals ensures that judicial time and the machinery of the Justice system is not unnecessarily misused.

31. Yet another proposal is to increase the efficiency of the hearing of appeals at the Federal Court. The Judiciary is considering the feasibility of having applications for leave to appeal to the Federal Court be heard by only a single Judge of the Federal Court. At present, at least three judges hear such applications and this too takes up significant judicial time and resources.

32. In a further effort to improve access to justice generally, we have also amended the Rules of Court 2012 to now cater for specific procedure on environmental cases. These provisions serve to facilitate and encourage environmental suits by relaxing procedural obstructions, such as locus standi. One will also be aware that we are governed by many environmental laws through various statutes. These scattered provisions will now be governed by a single set of procedure in the Rules of Court 2012.

33. The changes I have outlined are consonant with that of other similar jurisdictions. We hope for greater cooperation from the stakeholders in this respect.

(ii) Adopting Newer and Bolder Measures to resolve Perennial Woes

34. The Judiciary has to constantly introduce measures to meet the constantly evolving problems arising in terms of the workload of the Judiciary. A perennial problem is the increasing case load. The ever increasing interlocutory appeals affect the Court of Appeal the most. In fact, the Court of Appeal has become so inundated with interlocutory appeals, which currently stand at around 1,200 appeals that the Judiciary needed to co-opt special Court of Appeal panels comprising Federal Court judges to reduce the heavy workload in the Court of Appeal.

35. There are also a large number of family law cases at the High Court. In light of this the Judiciary has decided to invoke section 2 of the Law Reform (Marriage and Divorce) Act 1976 which empowers the Yang di Pertuan Agong on the advice of the Chief Judge to confer upon any Sessions Court Judge, the jurisdiction to deal with any matter under the Act.

36. For the time being we intend for Sessions Judges to hear only non-contentious family law matters to allow the High Court judges to focus on the more contentious matters. We will hand-pick the most senior Sessions Judges in this respect and they will also be given special training. These training sessions will begin on 8 February 2020.

(iii) E-Appellate and Going Completely Paperless

37. Considerable resources both judicial and financial are wasted by reason of the antiquated methods we have been utilising. For example, our appellate sittings in Sabah and Sarawak require the transportation of hard copy cause papers to the relevant courts. This requires considerable manual labour and expense.

38. To overcome this, we have already gone paperless at the appellate level in Sabah and Sarawak. We have also commenced doing this at our appellate hearings in Putrajaya and we plan to achieve full digitalisation by the middle of this year. Practically speaking it means that we are able to refer to voluminous documents on a single electronic device – i-Pads or laptops.

39. Needless to say the benefits to the environment in terms of reducing our carbon footprint and the reduction in printing and transportation costs will be significant. For litigants, disbursement costs will be similarly reduced, enhancing access to justice.

40. Embracing technology and its advancements is not easy. We human beings are subject to the inertia brought by change. But this is where everyone in the Judiciary, the Bar and Chambers will have to adopt a new mind set and be ready to move forward in tandem with numerous other jurisdictions which have already implemented these technological advancements, both at the Bar, Chambers and the Judiciary.

(C) Continuous Legal Education and the Need to Improve Standards

Ladies and gentleman,

41. The need for continuous legal training is not unique to judges; it is essential for lawyers at the Bar and in public service. In the case of the former, the Bar only recently implemented the Continuing Professional Development (CPD) program aimed at enhancing legal knowledge among

its members. However, there is a need for greater emphasis on continuous legal education. That too, in relation to the core values underlying the administration of justice.

42. Poor oral and written advocacy has a catastrophic effect on the system of justice, in that poor advocacy places a further strain on the Courts. Unsatisfactory research and worse still, misleading the Court, results at worst in an erroneous decision and at best, diverts valuable judicial time and concentration from analysing and developing the law, to unravelling poor submissions and to rectifying incorrect propositions. Judicial time is a precious resource and ought not to be squandered in this manner.

43. Declining standards do not assist judges to write judgments of quality. As I recently said at the National Litigation Conference 2019, while many quarters are quick to comment adversely on the quality of our judgments, no one seems to state that the quality of advocacy, submissions and legal research leave much to be desired.

44. While the Bar and Chambers will have to improve their own standards of advocacy and research, the Judiciary proposes to continue its internal reforms to further improve its own standards.

**(i) Judicial Clerkship Program and Encouraging Further Studies
Among Judicial Officers**

45. An important facet of writing judgments of quality is to boost the capacity of research support, currently in the form of a Judicial Clerkship programme. Judiciaries in the United Kingdom, the United States, and our neighbour: Singapore, place reliance on Justice's Law Clerks whose main functions are to serve as a Judge's research assistant.

46. The Judiciary has approached the administration of almost every Law Faculty of every local University to recruit the brightest and most capable graduates to attach with the Judiciary for the Judicial Clerkship Program. Foreign graduates have been more difficult to canvass. The Judiciary has previously sought and still seeks the assistance of the Bar to assist with the recruitment of suitable candidates as law clerks, both local and foreign.

47. New talent aside, the Judiciary is also working on improving the current pool of talent among its officers. It is working with the Public Services Department to enable as many of its officers as possible to further their

studies – that is to say – to obtain their post-graduate degrees. We are also inviting lecturers to the Palace of Justice to conduct post-graduate courses after office hours.

(ii) Fighting Corruption

48. Another crucial aspect topping the Judiciary's list of priorities, is the battle against corruption. The need to eradicate this menace and its effect, if discovered in the Judiciary, is obvious. How is the public to have confidence in an institution which is plagued or perceived to be plagued with corruption?

49. We do not tolerate corrupt practices. We have implemented a policy that officers will be transferred once in every three years to ensure: firstly that they do not get too comfortable and prone to temptation at their work station; and secondly that they become well-rounded officers with varied experience.

50. It is also a policy requirement that Judges and Judicial Officers have to declare their assets to the Chief Justice and the Chief Registrar respectively,

to ensure accountability and transparency. Breach of ethics will result in the invocation of their respective Codes of Conduct.

51. However, I must sound a note of caution. Corruption itself is completely different from falsely alleging that judges or the Judiciary as a whole is corrupt. This unfairly and unjustifiably creates a negative perception and erodes the confidence of the public in the Judiciary. And public confidence in the Judiciary is essential to engender the Rule of Law and democracy. Members of the Bar and the Judicial and Legal Service will do well to remember this.

52. When spurious allegations are made against the institution, judges are, by the very nature of their office, unable to respond. The irony is that the Judiciary, the very institution tasked with the insurmountable obligation to defend the liberty of the people, is itself quite defenceless. It is incumbent on all the stakeholders in the justice system to support and defend the system when the institution is undermined. It therefore falls on the Attorney General and the Bar to come to its defence. It is only when we understand our respective roles and the inherent obligations that come with such roles, that we may work together to strengthen judicial independence.

(D) Access to Justice and Improving Efficiency of Court Processes

53. This leads me to the second aspect of judicial reform: improving efficiency. This includes the measures we have taken to improve court procedures as well as access to justice.

(i) Improving Efficiency of Court Processes by Digitalisation

54. Modern technological advancements serve primarily to boost access to justice. Developing the process is therefore absolutely necessary. This is one reality the Judiciary and the rest of the justice system must accept if we are to keep up with the rapid onslaught of the Fourth Industrial Revolution.

55. From 2009, the Judiciary in Peninsular Malaysia has replaced manual court processes with digitalised ones. To date, the following e-Court procedures have been implemented namely, Court Recording and Transcription (CRT), the Case Management System (CMS) the Queue Management System (QMS) and the e-Filing system – which may all be consolidated under the banner of e-Court. There are different operating

systems in Sabah and Sarawak and Peninsular Malaysia, which means that our mode and rates of expansion in terms of digitalisation, vary.

56. For 2020, consonant with past reforms, we propose expanding and extending our e-procedures to include the following, subject to our receiving funding from the Government:

(a) Expansion of the E-Court system to all locations throughout Peninsular Malaysia

57. From 2009 to 2019, the e-Court system was enjoyed in 20 locations, spanning 271 courtrooms. These locations were largely the Superior Courts throughout peninsular Malaysia. In large stations like Kuala Lumpur, the Subordinate Courts were also digitalised. For 2020, we intend to implement e-Court to the remaining 82 locations at all levels of the Court hierarchy.

(b) Expansion of e-Review

58. E-Review enables case management to be undertaken by the court registrars and counsel online, using the e-Court platform. In October 2018,

e-Review was first introduced in the Appellate Courts. It encompassed civil appeals only and it served to ascertain the readiness of the appeal for disposal. However, it had great impact in that it radically reduced time and costs for outstation lawyers in particular. In 2019, the platform was expanded to the High Court in selected stations.

59. For the coming year, we intend to expand it to all levels of the Court hierarchy at the 20 stations which currently enjoy the e-Court platform. This is subject to budgetary constraints. Sabah and Sarawak have enjoyed this facility for many years.

(c) E-Auction (E-Lelong)

60. The E-Lelong system was introduced sometime in 2016 with a view to digitalising the public auction of immovable property in foreclosure proceedings. The platform is currently available in Peninsular Malaysia at the High Courts in Malaya at Temerloh, Kuantan, Taiping and Ipoh. We propose to expand the system to all High Courts in Malaya this year, subject to funding. The platform is not available in Sabah and Sarawak, as yet, as they operate on a different system.

61. E-Lelong is a welcome addition to the e-Court platform because it eradicates the presence of external influences and all forms of corruption in the tender system for foreclosure. Previously, foreclosure required considerable manual input and to that extent was plagued by inefficiency, the lack of transparency and external interference. By digitalising the process, the Judiciary is able to keep confidential, the bids and the identity of bidders.

(d) Quick Response Code (QR Code) Authentication

62. The Quick Response Code or QR Code serves to provide a security feature to verify the authenticity of Court orders online. Presently under the e-Court system, we utilise a security feature in terms of a serial code and any person or entity seeking to authenticate a Court order would have to access and type in the serial code to verify it. With this feature, the user need only scan the QR Code to verify its authenticity. The limitation we face is that this feature is only available in those courts which enjoy the e-Court system.

(e) Electronic Bail (E-Jamin)

63. Court processes in relation to bail remain unchanged. However, an electronic bail system is available. It enables a bailor to make the bail payment online, rather than physically going to a bank to procure the necessary bail bond. This is particularly important in smaller and more remote stations where a bailor may have to travel long distances to access his bank account for the provision of a bail bond within a limited time.

64. The concept is also of particular significance in States like Johor and Kedah where the Courts operate on Sunday whereas banks do not. The dilemma caused by closed banks on Sunday may therefore be alleviated through this platform.

65. This initiative will be launched after the ceremony. The launch of the program will be in stages beginning first with Kuala Lumpur, Shah Alam and Seremban and we hope to expand it to all the other States in due course.

(ii) Improving Physical Access to Justice

66. While we are seeking to improve our technological advancements, it is an undeniable fact that a large sector of the Malaysian public, still view formal justice as a luxury to which they have little or no access. The Judiciary seeks to address the situation to some extent by expanding existing physical courtrooms to include more Sessions and Magistrates courts. This has the practical effect of giving access to justice to a larger portion of the population.

67. In 2020, we are expanding or opening the following Courts to enhance access to justice for the *rakyat*.

- (i) firstly, statistically speaking, the number of cases in Sungai Petani warrant the setting up of a separate High Court there. At present, all cases arising in Sungai Petani are heard in Alor Setar High Court which poses logistical problems to litigants and lawyers. Similarly, we propose establishing a Sessions Court in Langkawi. The population there will no longer need to travel to Alor Setar to have their legal disputes resolved and accused persons need no longer be flown or ferried to Alor Setar.

- (ii) secondly, and for the same reasons, we have established a Sessions Court in Besut, Terengganu to hear cases arising there and in Setiu. Previously, people had to travel one hundred kilometres – a two hour long journey, to get to Kuala Terengganu Sessions Court. That will no longer be the case. We are looking to do the same in Kemaman.
- (iii) thirdly, the Immigration Court in Semenyih which was closed in July 2009 due to riots, has been re-opened earlier this week after the Immigration Department strengthened security in this court. The re-opening of this Court was crucial to meet the increased number of immigration cases in Selangor.

(iii) Renovation Works

68. As many of you are aware, our court buildings in various parts of the country are in a state of disrepair. Some of these defects are so serious that safety of the court users is a major concern. To this end the RM120 million allocated to the courts for improvements is long overdue and will be utilised completely in 2020.

(E) Budget, the Role of the Other Arms of Government and Financial Autonomy of the Judiciary

(i) Budget and the Role of the Other Arms of Government

69. It will be apparent at this juncture that without allocation of sufficient funding from the government, judicial reforms would be next to impossible. The allocation of sufficient funding is of considerable significance to enable greater access to justice for a larger proportion of the public. It also enables the Judiciary, and thereby the country, to achieve the global standards required in this increasingly borderless world. The other arms of the government need to comprehend and facilitate these objectives, which are for the ultimate benefit of the *rakyat*.

70. At a practical level, the issue of adequate resources requires greater interaction between the Judiciary and the other arms of the government. This is rarely done at present, as any form of interaction between the other arms and the Judiciary is frowned upon as an incursion into the separation of powers. However, that is a misconception as it is necessary for all the arms of the government to work in tandem for the ultimate progress and well-being

of the nation. On the contrary, it serves to strengthen the Judiciary and its role in promoting the Rule of Law.

(ii) Financial Autonomy

71. Until very recently the Judiciary had no autonomy over either the allocation of funding it required, or the expenditure of the funds allocated to it. All initiatives required the approval of the relevant governmental body. Now, the Chief Registrar has finally been allowed to take on the role of Financial Controller, thus affording the Judiciary some degree of financial autonomy. The importance of financial autonomy cannot be sufficiently stressed as it comprises a hallmark of judicial independence.

(F) The Judiciary and the Media

72. Another important step to bolster public confidence in the Judiciary as an independent institution is to ensure that its judgments are accurately reported or summarised. The media plays a pivotal role in this regard. Misrepresentation or inaccurate reporting runs the risk of undermining public confidence. Recognising this risk, the Judiciary now, and has for some time introduced press summaries that are made available immediately after a

judgment has been pronounced. This ensures that the crux of a judgment is understood by use of clear and simple language.

73. We are particularly pleased to note the advent of The Edge Law Reports, similar to the Times Law Reports in the United Kingdom. These succinct yet comprehensive reviews of our judgments enable the public, particularly in the commercial sector to be apprised of the latest legal developments. It also serves the important function of improving public awareness of the nature and standard of the judgments issued by the Courts, as well as the competence and diligence of our judges.

(G) Improving Legal Awareness

74. In tandem with developing and rendering the Courts more accessible, we are also patently aware of the need to improve awareness beginning for our young. My predecessor, Tan Sri Richard Malanjum spearheaded the My Courtroom to Classroom (MYC2C) program. Through it, Judges and Judicial Officers attend schools and educate the young about the law, our court structure, and the Federal Constitution in general – with particular emphasis on the Rukun Negara.

75. The MYC2C initiative took place last year at a school in Putrajaya. For this year in early February, the initiative is planned to be held at Sultan Ismail College (Maktab Sultan Ismail), a school in Kota Bharu, Kelantan. We hope to roll out more programs for schools in other locations at a larger scale.

76. Further, much like the United Kingdom, we hope to make full use of technology and we are thus looking into setting up virtual appointments between the Judiciary, the schools and other institutions of higher learning. Through this system, the Judiciary may coordinate with such institutions by allowing Judges to speak via teleconferencing to students in schools. It will be no different to what is now called a 'Webinar'.

(H) Analysis of Statistics

77. Finally, I turn to the performance of the Courts as borne out by our annual statistics. Suffice to say that both the Subordinate and Superior Courts are at 90% in the disposal of its case-load. Disposal equals registration in most courts save for a few. There too, the difference is not significant. In short the courts appear to be working at near maximum efficiency.

78. I must commend all judges at all levels of Judiciary for working tremendously hard at ensuring the speedy and effective resolution of cases within the timeline stipulated. I must add here that the 10% of aging and cases pending are attributable to the numerous interlocutory appeals filed and pending at the Court of Appeal and the Federal Court. With respect, some of these appeals are a strategic manoeuvre geared at stalling the resolution of the main case. This again, lends credence to need for the substantive reforms I highlighted earlier.

79. That said, I must emphasise here that the Judiciary views the statistics as a guide to ensure that the case load is dealt with within a projected time frame as undue delay affects the justice of a case. However, we remain mindful that it is substantive justice that is the true measure of the success of the Judiciary's performance. This we leave the public and the legal profession to judge.

80. Before I conclude, I propose to respond to one aspect of the speech delivered by the President of the Malaysian Bar. We appreciate the pledge by the Bar that it will continue to protect and uphold the independence of the Judiciary. That is, as I alluded to earlier, one of the foremost duties of the Bar.

81. The President went on to refer to allegations of judicial interference and repeated the call for a Royal Commission of Inquiry to be set up in respect of the Judiciary. First let me say that we do not question the Bar's right to do so.

82. But as I have stated earlier, the allegations made are under investigation. Until the authorities decide whether these allegations warrant further action, they remain what they are – unproven accusations.

83. However, the President of the Bar's statement has further ramifications. It creates the perception that as these allegations have been made, that in itself, shows that the Judiciary lacks independence. It further suggests that without an RCI the confidence of the public in the Judiciary stands eroded.

84. This, with respect, is wholly unwarranted because what are in effect unproven allegations are not, and cannot be, reflective of the independence of the entire Judiciary. Ironically it has the unfortunate effect of eroding public confidence in the institution as it now stands.

85. How is the Judiciary to function if the entire institution is perpetually put on trial for allegations which are still under investigation? This is where the element of synergy between the stakeholders in the justice system is crucial. It is important that the Bar, which plays a crucial role in upholding the independence of the Judiciary, does not unwittingly erode public confidence by imputing that the entire Judiciary is tainted until an RCI is held. I therefore call for continuing support from the Bar to ensure that public confidence in the Judiciary is upheld.

CONCLUSION – TOMORROW’S JUDICIARY

86. In conclusion I pause to reflect that 2020 is a beginning of a new decade and with the continuous support and co-operation from Chambers, the Bar and all other stakeholders, I can only hope that it will augur the very best for the justice system in Malaysia.

87. With that, may I wish each and every one of you a happy new year and I now declare the legal year 2020, open. Thank you.