



SPEECH

YBHG TAN SRI IDRUS BIN HARUN

THE ATTORNEY GENERAL OF MALAYSIA

THE OPENING OF THE LEGAL YEAR 2022

14th January 2022

May it please Your Honours,

YAA Tun Tengku Maimun Tuan Mat, the Chief Justice of Malaysia,

YAA Tan Sri Rohana Yusuf, the President of the Court of Appeal,

YAA Tan Sri Azahar Mohamed, Chief Judge of Malaya,

YAA Dato' Abang Iskandar Abang Hashim, Chief Judge of Sabah and Sarawak,

Judges of the superior courts and Judicial Commissioners,

Honourable State Attorney-General of Sabah,

Honourable State Attorney-General of Sarawak,

President of the Malaysian Bar,

President of the Sabah Law Society,

President of the Advocates Association of Sarawak,

Fellow officers of the judicial and legal service,

Distinguished guests, ladies and gentlemen.

Assalamualaikum warrahmatullahi wa barakatuh and a very good morning I bid to all.

1. May I begin by recording my deepest appreciation to the Right Honourable the Chief Justice of Malaysia for the privilege and honour to address the gathering of the legal fraternity on this august occasion of the Opening of the Legal Year 2022.
2. We are gathered here to not only welcome the new legal year but to reflect on the challenges we have had to bear, the measures taken to overcome them during the COVID-19 pandemic and the enduring success that we attained. I will also take time to pause and reflect on the important role the Attorney General's Chambers ("AGC") play as an integral component in the administration of justice in Malaysia.

YAA, YA, Ladies and Gentlemen,

3. As the pandemic broke out globally in 2020 and ensued in the following year, Malaysia was not spared from the immense challenges brought about by the pandemic. It threatened national security, diminished economic prospects of the country and

endangered public order. It disrupted the normalcy that we were once accustomed to.

4. Undoubtedly, these past two years had been challenging for us all. The unprecedented times called for unprecedented measures. During those trying times, the AGC played a pivotal role in providing legal support to the Government in its effort to curb the spread of COVID-19. The challenges presented before us lie in advising the relevant Government agencies on various matters to identify the most appropriate mechanism to enforce the relevant restrictions and Standard Operating Procedures (“SOP”) alongside the policy makers in striking a balance between protecting public health and allowing for the continued livelihood of the people which, by any means, was not an easy task.
5. The nature and pace of the work were unprecedented; they were very often, urgent. My officers had nonetheless worked tirelessly beyond their call of duty. They burned the midnight oil, risked their safety and compromised their health to attend countless consultations and meetings physically to serve the nation right from the very first ‘lockdown’, through the Proclamation of Emergency until the recent National Recovery Plan phase. These were most

often achieved within a very limited time-frame given by the relevant agencies.

6. Their hard work and sheer dedication resulted in 73 subsidiary legislations consisting of 38 regulations, 10 orders and 25 declarations issued under section 11 of the Prevention and Control of Infectious Diseases Act 1988 [Act 342].
7. The implementation of these legislations saw the very first Movement Control Order (“MCO”) imposed in March 2020 and later, series or derivatives of it, which restricted mass movement and gathering at both domestic and international levels. It also saw the closure of all educational institutions, government and private premises except those regarded as essential services.
8. In addition, two new Acts were enacted, namely, Temporary Measures for Reducing the Impact of Coronavirus Disease 2019 (Covid-19) Act 2020 [Act 829] and Temporary Measures for Government Financing (Coronavirus Disease 2019 (Covid-19) Act 2020 [Act 830] and 13 existing principal legislations were amended to allow certain economic activities to operate in order to mitigate the financial and social impact of COVID-19 and to protect health and ensure support of the livelihood of people. These include

various sectors such as the supply of daily necessities, international trade, critical infrastructure and emergency works.

9. It is also noteworthy to mention that my Chambers was central in preparing guidelines for the Muslim community for the conduct of their affairs during the pandemic by attending the *Muzakarah* Committee of the National Council for Islamic Religious Affairs meetings. This led to the passing of binding *Syariah* laws (*'hukum syarak'*) pertinent to a host of matters affecting Muslims including congregational prayers, vaccination and management of death of COVID-19 patients.

YAA, YA, Ladies and Gentlemen,

10. As Malaysia entered into a state of emergency in early 2021 due to an exceptional surge in the number of COVID-19 cases daily, a total of 7 Emergency Ordinances were promulgated under Clause 2B of Article 150 of the Federal Constitution. The Emergency Ordinances empowered the public health sector as well as other enforcement agencies towards a more efficient management of government resources. These Ordinances allowed among others, the temporary

nationalisation of private healthcare facilities and the deployment of additional military and police personnel to the infected areas.

11. In addition, vetting of the necessary directives issued by the Yang di-Pertuan Agong under the said Emergency Ordinances that conferred, among others, additional powers to the armed forces on treatment, immunization, isolation, observation or surveillance of COVID patients were also undertaken by this Chambers.

12. The bleak state of emergency was not for long when the Government unveiled the four-phase National Recovery Plan ('NRP') by mid-June 2021. The NRP came to life with the coming into force of the Prevention and Control of Infectious Disease (Measures within Infected Local Areas) (National Recovery Plan) Regulations 2021 [*P.U.(A) 293/2021*] issued by the Minister and which would, of course, have undergone thorough vetting process by the AGC. Malaysians from all walks of life were delighted when the movement control measures started to gradually ease as Malaysia moved from one phase to the next, particularly when travel restrictions were lifted.

YAA, YA, Ladies and Gentlemen,

13. In addition to the COVID-related legal work, we kept the legal machinery running in a relatively different operating environment. We never abandoned our core work. It is by no means an easy feat. At this point, allow me to quote Sir Francis Bacon, the Attorney General of England in the 17th century, who described the duties of my office as “*the painfulest task in the realm*”. This saying holds true especially in these trying times.

14. I am indeed humbled and heartened to witness my officers who have had painstakingly braced the challenging situation and ensured that work continued in innovative ways. They were quick to adapt. Remote hearings, appeals, meetings and even international conferences and negotiations were conducted via various online platforms almost seamlessly.

15. Above all, we were tested to the brim and, against all odds, we have not merely survived; we thrived and emerged stronger, united and resilient than ever in these past two years. We pride ourselves in the following involvements and achievements:

➤ On AGC's involvement in cases of public interest, particularly those that contributed to the development of the law, I wish to name a few -

- Firstly, the Federal Court case of **Letitia Bosman v PP and other appeals** [2020] 4 CLJ 147, which led to a significant development of the law involving the constitutionality of the mandatory death penalty provided under section 39B of the Dangerous Drugs Act 1952 [*Act 234*];
- Secondly, the Federal Court case of **CTEB & Anor v Director General of National Registration Department Malaysia & Ors** [2021] 4 MLJ 236 pertaining to citizenship of a child born out of wedlock to a Malaysian citizen father and a non-citizen mother; where the Federal Court held that pursuant to Article 14(1)(b) of the Federal Constitution ("FC") read with paragraph 1(b) of Part II and section 17 of Part III of the Second Schedule of FC, the citizenship of such child follows that of the mother; and

- Thirdly, the case of **National Registration Department & Ors v A Child & Ors (Johor State Islamic Religion Council, intervener)** [2020] 2 MLJ 277, which relates to a judicial review against the decision of the National Registration Department (“NRD”) in ascribing “bin Abdullah” to the name of an illegitimate Muslim child. The Federal Court held that such child cannot bear the name of his father as section 13A of the Births and Deaths Registration Act 1957 [Act 299] which allows the ascription of surname of the mother to the name of an illegitimate child has no application to the Malay Muslim naming system.

➤ On the involvement in conducting high-profile cases, if I may highlight a few important ones –

- the case brought against the former *Dewan Rakyat* Speaker and the former Prime Minister to invalidate the legality of the one-day Parliamentary sitting on 18th May 2020 where the High Court held that the justification for the one-day sitting of Parliament was reasonable to

avoid the risk of spreading COVID-19 and to prevent the creation of another cluster;

- the 8 unsuccessful challenges to the Proclamation of Emergency by His Majesty The Yang di-Pertuan Agong;
- the completion of inquest to ascertain the cause of death of Nora Anne Quorin, the French-Irish teenager who went missing while on a family holiday at a resort in Seremban;
- the conviction¹ of a person who broke home quarantine rules and caused the spread of *Sivagangga* COVID-19 cluster, which sparked controversy throughout the nation; and
- the prosecution of several political and prominent figures of the nation, some of which are still ongoing.

➤ On the international front, as the world grew increasingly isolated, AGC continued to maintain international connections through our active engagement with international

¹ Nezar Mohamed bin Shabur

organisations as part of Malaysia's responsibility in meeting its international obligations. We were involved in the successful negotiations to secure COVID-19 vaccine for the Malaysian populace;

- we had also waded into uncharted territory when resorting to the World Trade Organization (WTO) dispute settlement mechanism to resolve a dispute with the European Union (EU) on its legislative measures which restricted exports of palm oil as a bio-fuel source into the EU that led to a landmark decision. It was one of the few cases concerning the WTO's technical barriers to trade agreement, of which there are only about 5 such cases in the history of WTO. We had stretched our minds and resources in dealing with the dispute that involved a unique settlement mechanism that focused not merely on the legal aspect of the dispute, but also trade flows and data whilst taking into consideration environmental and sustainability issues;
- for the first time in history, Malaysia successfully hosted the 20th ASEAN Senior Law Officials Meeting (ASLOM) via online platform. It was attended by Delegates of ASEAN Members

States and representative of the ASEAN Secretariat. The ASLOM successfully discussed and agreed on various areas of legal cooperation to support the ASEAN Community and its rules-based agenda; and

- further, we have also been centrally involved in securing the repatriation of monies and assets misappropriated from 1MDB worth billions of Ringgit through the setting up of a special task force at AGC, that worked in collaboration with numerous domestic and international law enforcement agencies, including the United States Department of Justice and the Commercial Affairs Department (CAD) of the Singapore Police Force.

- Apart from that, AGC was involved in various significant policy-making Committees, which includes –
 - the Committee on Monitoring the Research Alternatives to Mandatory Death Penalty where AGC was tasked to prepare an official report that contains a significant study bound to alter the landscape of the nation's criminal

sentencing policy as the government consider calls to abolish the mandatory death penalty in Malaysia; and

- the Special Council on Implementation of Malaysia Agreement 1963 and its sub-committees, where AGC is involved in various negotiations and consultations conducted between the Federal Government and the State Governments of Sabah and Sarawak, on claims to restore the status of Sabah and Sarawak as envisaged in the Malaysia Agreement 1963. This culminated in the recent amendment to the Federal Constitution at the last session of Parliament, which was passed with a resounding vote of more than two-thirds of the members of Parliament.

YAA, YA, Ladies and Gentlemen,

16. The above achievements were made possible by the digitisation of our justice system. The response of the justice system to COVID-19 has demonstrated that advancement in technology has been critical to its success through the ages. In the context of the Digital Age, all members and stakeholders of the justice system must

acclimatize themselves with the reality that technology is increasingly crucial in all aspects of life.

17. Prior to COVID-19, AGC already had digitisation of internal systems in place, all thanks to the foresight of my predecessors. It has made our work much easier in these trying times. The latest edition to the technology we adopted is the i-AGC online system that allows us to complete our task from anywhere, including at home. The system operates based on a 'cloud computing system' which provides storage of documents, databases, networking and applications accessible at real time. The i-AGC system not only assisted our officers to reduce physical contacts during the enforcement of the various MCOs but it also helped us to reduce our carbon footprints on the planet as we move towards creating a green or sustainable work environment.
18. Due to these initiatives taken, in 2020, AGC was awarded the Platinum Status on the Green Data Centre (GDC) accreditation by Green Computing Initiatives, which is the highest rank on GDC status. Meanwhile in 2021, AGC won and was selected as the Winner of Malaysia Public Sector Green Data Center, Best of Scalability and Resilience Award by Green Computing Initiatives.

This category recognizes the achievement of a Government department in upscaling or enhancing the capacity of their existing servers to meet future demands, which effectively reduces carbon dioxide emissions by our department.

19. If I may digress on this point, I am proud to say that by implementing advancement in information and communication technologies AGC is the first government department to implement the Working from Home (WFH) Pilot Project. It is a part of our continuous transformation projects since 2012 with the objective of balancing the welfare of our officers without compromising the quality of our service delivery to the Government and the public at large. In order to complement the Working from Home policy, AGC pioneered a virtual office system called Chambers Virtual Office (“CVO”). The CVO houses numerous important working documents relating to our core business systematically for the reference of our officers whilst working at home. The virtual office was designed such that officers need not rely on physical files as all important documents pertinent to their work is uploaded and retrievable online.

20. This early experience of Working from Home project had helped AGC in managing all operational, administrative and service deliverability effectively during the COVID-pandemic phase. Legal

officers have successfully demonstrated their level of competence and efficiency and ability to deliver their work efficiently during these trying times.

YAA, YA, Ladies and Gentlemen,

21. In the wake of the constraints posed by COVID-19, the Right Honourable the Chief Justice was steadfast in promoting the expeditious delivery of justice, whilst giving due regard to the rights and interests of the parties involved in the administration of justice. On this note, I wish to congratulate the Right Honourable the Chief Justice and her team on such excellent work in ensuring that justice is served.

22. Come what may, ultimately our collective aim is to promote justice in line with the legal maxim “***justice should not only be done, but must undoubtedly and manifestly be seen to be done.***”. These past two years had witnessed the three components in the administration of justice – the Judiciary, the AGC and the Bar, working together to overcome the unforeseeable challenges brought about by the pandemic. This is a testament of our resilience and tenacity as a legal community.

23. We must therefore send the same message to the public that with the start of the new legal year 2022, the three components in the administration of justice indeed echo the same aspiration, desire and vision to uphold the rule of law and to maintain integrity of the legal profession whilst embracing the new normal.

24. We should also look beyond statistics and figures, and consider human factors. When it comes to dealing with issues of life and death, or which affect the liberty of a person, appropriate consideration must be given to all relevant factors to attain justice. The noble aim of setting targets for the disposal of cases must be balanced with the requirement that justice must not wait or suffer.

25. I must impress here that the best way to maintain confidence in the justice system is to enhance the existing cooperation between the Judiciary, AGC and the Bar to deliver justice, as we have done during these unprecedented times. I do not wish to see a decline in public confidence in any of these three components, as the public views us as interrelated and not distinct. Hence, the Judiciary, the AGC and the Bar must come together with one vision and one aim, and join hands to create a conducive working environment towards attaining justice in these trying times.

26. On this note, I am proud to highlight on the robust partnership between the AGC, the Bar Council and other members of the legal fraternity through the National Legal Aid Foundation or fondly known as YBGK. As the Chairman of YBGK, I am glad to announce that over the years, the number of services provided by YBGK has tremendously grown from **91,544 in 2013 to 215,990 in 2020**. This growth resulted in an increase in YBGK's expenses from approximately **RM2 million in 2013 to RM9.1 million in 2020**. Consequently, the Government has also raised the grant given to YBGK to cover those expenses. The total amount received by YBGK since its inception is RM58,089,200.00. For 2022, the Government through the Prime Minister's Department, has approved a grant of RM7 million to YBGK. This is an illustration of the Government's continuous commitment and willingness to acknowledge legal aid services to ensure equal access to justice for those in need of legal redress.

27. I am also pleased to see an increase in participation from members of the Bar to join as YBGK lawyers, from a humble figure of **697 in 2012 to the present number of 3121 registered YBGK lawyers**. I must thank each and every one of the YBGK registered lawyers for

their continued support and contribution as part of the social responsibility that we share. The success of YBGK would not have been possible, but for the outstanding cooperation and close ties forged between AGC and the Bar.

28. With that in mind, allow me to conclude with a pledge on AGC's commitment towards ensuring a fair, transparent and efficient delivery of the justice system in Malaysia. The AGC's role in the justice system is not merely to win at all costs, but to prosecute or conduct cases fairly, independently and transparently based on evidence.
29. I am thus reminded of my duties with this humble quote from the Quran, in *surah al-Maidah* verse 8, in which Allah commanded to this effect:

*“O believers! Be dutiful to Allah, bearing witness to the truth in all equality. Do not allow your hatred for other men lead you into sin deviating from justice. **Deal justly (with all people), for justice is closest to God- consciousness. And remain conscious of Allah, for truly Allah is Ever-Aware of all that you do.**”*

(al-Maidah 5:8)

30. Lastly, I would like to extend my good wishes on this new year to all members of the legal fraternity and everyone present for a more peaceful and harmonious year ahead. As a final parting word, let us be reminded by what Tunku Abdul Rahman Putra Al Haj, our Father of Independence, once said:

“We are all Malaysians. This is the bond that unites us. Let us always remember that unity is a fundamental strength as a people and as a nation.”

May this inspire us to brave the uncertain future together.

With that, I end with *wabillahi taufik wal hidayah, wassalamualaikum warahbatullahi wabarakatuh.*

Thank you.