

**THE SABAH LAW SOCIETY'S SPEECH AT THE ELEVATION CEREMONY OF**

**THE RIGHT HONOURABLE, THE CHIEF JUSTICE OF MALAYSIA,**

**DATO' TENGKU MAIMUN BINTI TUAN MAT**

**17.05.2019**

May it please your Ladyship, my name is Brenndon Soh and I appear on behalf of the Sabah Law Society.

Today we gather to mark the elevation of Your Ladyship to the highest judicial office in the land. A position that illustrates and recognises your Ladyship's ability, integrity and intellectual capacity in dispensing justice. In the 55 years that have passed since Tun Sir James Beveridge Thomson was sworn in as the first Chief Justice of this Court, commencing from that significant historical date, the 16<sup>th</sup> of September 1963, only fifteen men have occupied the highest of judicial offices.

Your Ladyship will be the sixteenth Chief Justice of this Court. It is a landmark moment in our nation's history by being the first woman to hold this office and I hasten to add that your profound achievements and success have no bearing on gender but everything to do with intelligence, diligence and skill.

Having graduated from the iconic University of Malaya and embarking upon your journey as a legal officer of the Kelantan Selatan Development Authority in 1982, you have navigated your way through the drafting division of the federal attorney general's chambers, incrementally progressed through the subordinate courts as a Magistrate and Sessions Court judge, suitably held positions as a senior assistant registrar and special officer to a former Chief Justice and just prior to being appointed to the bench in 2006, honourably

holding the post as the Chief Registrar of the Federal Court. Your Ladyship's career path spans an extensive if not complete spectrum of service in the law. As a result, your Ladyship is clearly amply able and well equipped to relate to the personnel at every tier, all of whom form the breadth and depth of our judicial system. Thirty Seven years later, here we are on this propitious occasion.

Today's open and inclusive ceremony only reinforces the significance that the legal profession and the judiciary attribute to Your Ladyship's elevation and it is a public attestation to the confidence reposed in your capability at the helm of this pillar of an institution.

Notwithstanding your Ladyship's even handed but firm approach, attributes that will enable you to chart a level headed course to overcome any obstacle, it would be amiss of me to not recognise the immense responsibilities and obligations that accompany this noble and lofty chair.

Principally amongst these include the public confidence in the judiciary which is paramount. Inextricably linked with this notion is its independence, both institutional and decisional. This essential concept and principle of our constitution is not an end in itself but is a means to achieving an end. That end being to secure an efficient, expeditious and impartial delivery of justice. Let the recent celebrated Federal Court decision of *Seminyih Jaya Sdn Bhd v Pentadbir Tanah Daerah Hulu Langat* be the cornerstone towards achieving that purpose. However, against that backdrop there is a need for some form of judicial accountability and I would humbly suggest that this delicate balance of accountability be tilted towards the substantive rather than the statistical.

Numbers may create short term records but it is the milestone judgments that leave lasting legacies.

Secondly, we acknowledge that the forefront of judicial transformation will involve the embracing of technology. Both the bar and the bench have and will benefit further from such advancements in terms of time, cost and productivity. In that respect, we look forward to the eventual integration of the two existing systems for Peninsula Malaysia and Sabah and Sarawak so that we in the East can utilise our current system for the filing of electronic appeals to the appellate courts, namely the Court of Appeal and the Federal Court respectively. In a similar vein, we look forward to the continuation of the judicial reforms initiated by your Ladyship's predecessor as well as further administrative improvements pending more substantial and structural reforms which will involve legislative intervention. In the meantime, the recent consultation process with the three bars of Malaysia in respect of judicial appointments and/or promotions are appreciated and valued and indicate a positive step towards a more transparent system of judicial recruitment.

Thirdly, as much as this country has had an enviable record in the administration of justice it has also unfortunately suffered from cyclical challenges, the legal profession included. Now, in the dawn of this new era, we hope that all the stakeholders in the justice system will strive to support, engage and encourage the advancement in the delivery of justice for the wider community, leaving behind those negative annals of history. The regular dialogue and open communication between the bench and bar will go a long way to achieving those requisite objectives.

Lastly, in this age of social media and instant online commentary, we recognise that there can be undue public pressure on the judiciary and indeed on a judge both before and after the making of a decision. The prerogative to determine without duress is for the benefit of the parties before the Court seeking justice, and not for the benefit of the judges themselves. Unwarranted or unsubstantiated criticism by the community of a judicial decision would not enhance accountability if it is based on a deficient understanding of the facts, issues or the relevant law. This is a worrying trend that must be countered with concern and sensibility. On the one hand we must uphold the freedom to constructively opine which develops critical thought and discourse but on the other the sanctity of the judicial system must be preserved. Moving forward, a suitable balance must be sought for this delicate issue. Establishing a bench, bar press committee may assist in mitigating the potential conflict amongst the mainstream media.

I echo and associate myself with the fine sentiments that are expressed by my learned friend, Datuk Abdul Fareed Abdul Ghafur on behalf of the Malaysian Bar and Ranbir Singh Sangha speaking next for the Advocates Association of Sarawak.

The Sabah Law Society, for whom I speak this afternoon, extends our sincerest congratulations on your Ladyship's appointment by His Majesty the Yang Di-Pertuan Agong to the pinnacle position of the judiciary with effect from the 2<sup>nd</sup> May 2019.

We are confident that your Ladyship will enhance the dignity of the office which your Ladyship has assumed, and will discharge your duties admirably

and with distinction, always guided by the timeless principles encapsulated by the Rule of Law and the cause of justice. As partners in the administration of justice, may I assure you of the fullest co-operation from the Sabah bar and we look forward in due course to the honour of your presence in Sabah.

In conclusion, I would end with a quote from the famed Australian Chief Justice Sir Owen Dixon and he said on 7<sup>th</sup> May 1952 that:-

*“In this court... the use of academic writings has been very great indeed; and yet I believe that the Court has always administered the law as a living instrument and not as an abstract study. Indeed, I think the Court has shown an ever-growing tendency to decide cases upon the minor premises and not to concern itself with general propositions but to go to the precise facts and circumstances.”*

It has been said that a living instrument has a past, present and future and in recognising this trait, one must therefore recognise the need to be attentive to the relationship of the authority of the law and this encompasses both its continuity and change.

Your Ladyship, I hereby wish you a long, distinguished and satisfying tenure as the Chief Justice of Malaysia.

Much obliged.

Brenndon Keith Soh

President

Sabah Law Society