

SYARAHAN PERDANA OLEH

YAA KETUA HAKIM NEGARA

DATUK SERI UTAMA WAN AHMAD FARID BIN WAN SALLEH

***Judges as Nation-Builders: Uniting Talent, Knowledge and Values
in the Pursuit of Justice***

Hakim sebagai Pembina Negara: Menggabungkan Bakat, Ilmu dan Nilai dalam
Memartabatkan Keadilan

Dewan Sri Budiman, UiTM Shah Alam

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Assalamualaikum warahmatullahi wabarakatuh and good afternoon.

Yang Amat Arif Datuk Hajah Azizah Haji Nawawi
Hakim Besar Sabah dan Sarawak

YA Hakim-Hakim Mahkamah Persekutuan dan Mahkamah Rayuan

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Pegawai-pegawai kanan Pejabat Ketua Pendaftar

Barisan Timbalan-Timbalan Dekan, Profesor Adjung dan Profesor
Kehormat,

Ketua-Ketua Pusat Pengajian,

Warga UiTM sekalian, Pelajar-pelajar Fakulti Undang-Undang,

Tuan-tuan dan puan-puan yang dihormati.

INTRODUCTION

- [1] Please allow me to thank the Faculty of Law, UiTM for giving me this great pleasure to be here today, standing before such a distinguished group of law students who represent the future of our legal profession.
- [2] I have no hesitation whatsoever, not even a slightest doubt that some of us in this hall, will one day occupy the highest judicial and legal offices in this country. Everything starts with a dream.
- [3] Let me begin by telling you something about myself. *UiTM pernah di hatiku.*

- [4] My tertiary education begins when I enrolled in Diploma in Public Administration (DPA) at UiTM Dungun. However, it was only a short span of time before I got a placement elsewhere to do my A-levels in England.
- [5] Despite that short period of time, I can still remember that I represented UiTM Dungun for *Kursus Kepimpinan* in this very Shah Alam Campus and singing “*Inilah barisan MARA*”.
- [6] For those who are not familiar with the DPA course, students are required to take law papers in the first semester, which I did. I can still vividly recall studying a book entitled “An Introduction to the Malaysian Legal System” by Prof Wu Min Aun, who happened to teach at this prestigious University at that material time. We also learnt the basic law of contract and of course the *Carlill v Carbolic Smokeball* case. As a very young student, I joined at course at the age of 15, I could not imagine what a smokeball was like, there being no Mr Google or Chat GPT then. To make things even more complicated, I found it difficult to understand the difference between invitation to treat and offer, being an element in a valid contract.
- [7] That brings me to my first advice to you today – to understand the facts of the case before you understand the principle behind the decided judgment.
- [8] Looking back, I recall my first law class at the Dungun campus. I was ready to absorb the infinite wisdom of the law. I felt prepared. I felt optimistic.
- [9] Then, Mr Frederick, our law lecturer, opened his mouth.

- [10] About five minutes in, he used a phrase, it might have been *ultra vires* or *ratio decidendi*, I can't exactly recall, and I realised that I hadn't understood a single word he said. I spent the entire first lecture nodding vigorously, frantically writing down every single *latin* term, hoping that my spelling was right.
- [11] Second advice. In the court room even if you don't understand anything, just nod your head and pretend to understand, especially so if your client is seated at the public gallery. You can ask your friend or may do your own research later. This advice does not extend to judges though.

Ladies and gentlemen,

CONTENT

- [12] Today, I want to speak to you about something that may not be immediately apparent in your law textbooks or case reports—the profound role that judges play not merely as arbiters of disputes, but as nation-builders. When we speak of nation-building, we often think of legislators crafting laws or executives implementing policies. Yet judges, through their daily work in interpreting law and delivering justice, contribute fundamentally to shaping the character, values, and progress of our nation.

- [13] I can give you one immediate example. In the landmark case of *Lee Kwan Woh v. Public Prosecutor* [2009] 5 MLJ 301 FC, the Federal Court held that Art 5(1) of the Federal Constitution should be read prismatically and in the light of Art 8(1) of the same, in that the concepts of 'life' and 'personal liberty' enshrined were found to contain in them other rights as the term 'life' meant more than 'mere animal existence' and includes such rights as livelihood and the quality of life and 'personal liberty' includes other rights such as the right to travel abroad. So, right to life includes the right to livelihood.

The Art and Science of Statutory Interpretation

- [14] As a law student, I always grappled with the topic that concerns statutory interpretation.
- [15] At first glance, it may seem like a technical exercise—applying rules of construction, consulting dictionaries, parsing legislative intent. But statutory interpretation is far more than a mechanical process. It is where judicial talent meets national development.
- [16] When a judge interprets a statute, he is not simply decoding words on a page. He is breathing life into legislative intent, ensuring that the law serves its purpose in the real world, in the present moment, for real people. A statute drafted decades ago must speak to circumstances its framers could never have imagined. Technology advances, society evolves, and human relationships grow more complex. The judge's role is to ensure that the law remains relevant, coherent, and just.

- [17] This requires not just legal knowledge, but wisdom. It demands that we balance fidelity to legislative text with sensitivity to context and purpose. We must honour the separation of powers while recognizing that language is inherently flexible and that meaning is often found not just in words, but in the spirit that animates them. Through thoughtful interpretation, judges ensure that the law is a living instrument that adapts to serve justice across generations.

Policy Considerations: The Judicial Conscience

- [18] This brings me to my second point: the role of policy considerations in judicial decision-making. We are told that judges simply declare the law and leave policy to Parliament. And there is truth in this—we do not make law in the legislative sense, and we must always respect democratic choices made by the people's representatives.
- [19] However, to suggest that judges operate in a policy vacuum would be naive. Every judgment has consequences that ripple through society. When we decide cases involving commercial contracts, we shape the business environment. When we rule on constitutional rights, we define the boundaries of freedom and authority. When we address questions of tort or criminal liability, we influence behaviour and social norms.

- [20] The question, then, is not whether judges consider policy, but how we do so responsibly. We must ask ourselves: What will be the practical impact of this decision? Does it promote certainty and fairness? Does it align with fundamental values enshrined in our Constitution? Will it contribute to social cohesion or create unintended hardship?
- [21] Policy considerations properly understood are not about imposing our personal preferences. They are about ensuring that our decisions, while legally sound, also contribute to the common good. They require us to think beyond the parties before us to the broader implications for society. In this way, judges become stewards of national development, ensuring that the law serves not just individual justice, but collective progress.

The Practicality of Decisions: Justice That Works

- [22] Let me turn now to a principle that should guide every judgment we write: practicality. A legally perfect decision that cannot be implemented or understood is a failure. Justice delayed is justice denied, but so too is justice that exists only in theory.
- [23] When we craft our judgments, we must consider the real-world consequences. Can this decision be enforced? Will it impose impossible burdens on parties or institutions? Does it provide clear guidance for future cases, or does it create confusion? Are we creating a precedent that will cause chaos in adjacent areas of law?

- [24] I have seen judgments, both brilliant and well-intentioned, that failed because they did not account for practical realities. A ruling that requires resources that don't exist, or imposes timelines that cannot be met, or creates standards that cannot be measured—these are judgments that undermine the very rule of law we seek to uphold.
- [25] Practicality also means writing judgments that can be understood. Our decisions affect people's lives, their property, their liberty. They deserve to understand why a court ruled as it did. Clarity is not just a stylistic preference; it is a democratic necessity. When we write with precision and accessibility, we strengthen public confidence in the judiciary and make the law more accessible to those it governs.
- [26] As future lawyers and perhaps future judges, I urge you to develop this habit now: always ask yourself not just "What is the right answer?" but "How will this work in practice?"

Judicial Activism: Courage Within Constitutional Bounds

- [27] Finally, let me address what is perhaps the most contentious topic in modern jurisprudence: judicial activism. This term has become something of a political football, often used pejoratively to describe judgments that someone disagrees with. But let us think more carefully about what it means and when it might be appropriate.

Ladies and gentlemen,

[28] Judicial activism, properly understood, is not about judges imposing their will or usurping legislative functions. It is about judges recognizing that in certain circumstances, constitutional and legal principles demand intervention, even when doing so is difficult or unpopular.

[29] There are moments in a nation's history when other branches of government fail to protect fundamental rights, when vulnerable groups are left without remedy, when constitutional values are at risk of being eroded. In such moments, judicial restraint—passive deference to the status quo—may itself be a dereliction of duty.

[30] Consider the great constitutional cases that have shaped nations: judgments that ended segregation, that recognized the rights of indigenous peoples, that protected freedom of expression against authoritarian impulses, that extended dignity to those society had marginalized. These were not examples of judges overstepping their bounds. They were examples of judges fulfilling their highest duty: to uphold the Constitution and protect the rule of law, even against popular opinion or political pressure.

[31] But let me be clear: judicial activism must always be anchored in constitutional text, principles, and values. It cannot be arbitrary or based on personal preference. It requires rigorous legal reasoning, careful attention to precedent, and humility about the limits of judicial competence. It demands that we distinguish between matters properly resolved through litigation and those best left to democratic deliberation.

- [32] The line between appropriate judicial intervention and overreach is not always clear. It requires judgment—the very quality that defines our role. As nation-builders, judges must have the courage to act when justice demands it, but also the wisdom to exercise restraint when democratic processes should prevail.

Uniting Talent, Knowledge, and Values

- [33] So what does it mean to be a judge as nation-builder? It means bringing together three essential elements: talent, knowledge, and values.
- [34] Talent is the technical skill you are developing here—the ability to analyse complex facts, to reason through difficult legal questions, to write clearly and persuasively. Never stop honing these skills. The quality of justice depends on the quality of judicial craft.
- [35] Knowledge extends beyond law to encompass history, economics, social realities, and human nature. The best judges are not narrow specialists but broadly educated individuals who understand the world in which law operates. Read widely, engage with different disciplines, listen to diverse perspectives.
- [36] Values—and this is perhaps most important—are the moral compass that guides how we use our talent and knowledge. Integrity, fairness, compassion, courage, humility: these are not soft virtues peripheral to judging. They are essential to it. Without values, talent becomes mere cleverness and knowledge becomes ammunition for predetermined conclusions.

Ladies and gentlemen,

[37] When we unite these three elements in the pursuit of justice, we do more than resolve individual disputes. We shape the legal landscape of our nation. We define what kind of society we aspire to be. We create precedents that will guide generations to come. We build trust in institutions that are essential to democracy and the rule of law.

A Call to Your Generation

[38] As I alluded to earlier, when I look at all of you today, I see future advocates, solicitors, academics, policymakers—and yes, perhaps future judges. Whatever path you choose, you will have opportunities to contribute to nation-building through law.

[39] The legal profession is not merely a career; it is a calling to serve justice. Our nation faces complex challenges: technological disruption, social inequality, environmental threats, questions about the balance between security and liberty, the need to preserve unity while respecting diversity. Law will be central to navigating these challenges.

[40] You have chosen to study law at a pivotal moment. The decisions your generation makes—in courtrooms, in negotiations, in legislative drafting, in legal scholarship—will determine what kind of nation we become. Will our legal system be accessible to all, or only to the privileged? Will it be rigid and formalistic, or dynamic and responsive? Will it protect the vulnerable, or entrench existing power structures?

[41] These are questions that will be answered through the daily work of law—through how statutes are interpreted, how policy considerations are weighed, how practical wisdom is applied, and when principled stands are taken. In other words, through the very themes we have discussed today.

CONCLUSION

Ladies and gentlemen,

[42] Let me conclude where I began: with the idea of judges as nation-builders. This is not a grand abstraction. It is a practical reality reflected in every judgment that gives meaning to constitutional rights, every decision that clarifies commercial law and enables economic activity, every ruling that protects the vulnerable and holds the powerful accountable.

[43] Nation-building through judging requires excellence—mastery of legal doctrine and technique. It requires wisdom—the ability to see beyond the immediate case to broader implications. And it requires character—the integrity to decide faithfully according to law, and the courage to do what is right even when it is difficult.

[44] As you continue your legal education, I encourage you to think not just about passing examinations or securing employment, but about the larger purpose of your chosen profession. You are preparing to be guardians of the rule of law, defenders of justice, and yes, nation-builders in your own right.

- [45] Our nation needs talented, knowledgeable, and principled lawyers. It needs advocates who will speak truth to power, judges who will decide with wisdom and integrity, and legal professionals who will ensure that the promise of justice under law is not an empty slogan but a lived reality for all.
- [46] Finally, in the little time that I spent at the Dungun campus, there is one phrase that has stuck with me throughout my adult life – a piece of anonymous, philosophical advice found in the form of a graffiti, written clearly on the wall at the end of my double decker bed. It was attributed to my senior, who called himself Bandit, whoever he may be.
- [47] The quote in all its glory said: “Nothing can be achieved without enthusiasm”.
- [48] You need a certain level of enthusiasm – some might call it delusional optimism – to willingly spend four years of your life reading cases about the neighbour’s noisy dogs, thin skull and rusty surgical clamps left in the patient’s stomach. You need enthusiasm to argue why the word “politically coward” is not defamatory.
- [49] So today, I want to pass on the same piece of anonymous advice which I obtained from no less than this great institution to the current generation. I have reached the pinnacle of my judicial career, and I must say, I thank Bandit for that.
- [50] And when that enthusiasm runs low, as it will from time to time, remember to substitute it with the three “L”s of survival: Laughter, Library and Lots of Coffee.

To the law students in UiTM,

[51] I would typically wish you good luck and extend good wishes in your future undertakings. However, I won't do this today.

[52] In fact today, I will not wish you luck. And I'll tell you why. From time to time in the years to come, I hope you will be treated unfairly, so that you will come to know the value of justice. I hope that you suffer betrayal, because that will teach you the importance of loyalty.

[53] Forgive me, but I hope you will be lonely from time to time so that you don't take friends for granted. I wish you bad luck, again from time to time, so that you'll be conscious of the role of chance in life and understand that your success is not completely deserved, and that the failure of others, including your opponent in the courtroom is not completely deserved either.

[54] And when you lose, as you will from time to time, I hope every now and then, your opponent will gloat over your failure. It is a way for you to understand the importance of sportsmanship.

[55] I hope you'll be ignored so you know the importance of listening to others, and I hope you will have just enough pain to learn compassion.

[56] The hard reality is, whether I wish these things or not, they're going to happen. And whether you benefit from them or not, it will depend upon your ability to see the message in your misfortunes.

Ladies and gentlemen,

[57] Thank you for the opportunity to share these thoughts with you today. May you always remember that in choosing law, you have chosen to serve something greater than yourselves—the cause of justice and the building of a nation governed by the rule of law.

[58] Your pursuit of legal education is the foundation upon which our justice system will continue to stand, and I am honoured that you've invited me to share this time with you.

Thank you for having me.