

**SPEECH BY YAA TUN ARIFIN BIN ZAKARIA
CHIEF JUSTICE OF MALAYSIA
AT THE
OPENING OF THE LEGAL YEAR 2015
10 JANUARY 2015
MAIN HALL,
MINISTRY OF FINANCE, PERSINT 3, PUTRAJAYA**

Assalamualaikum, Selamat Pagi and a very good morning to all.

Salutation

*Subject to changes

1. The Hon. Tun Dato' Seri Zaki Tun Azmi,
Former Chief Justice;

2. The Rt. Hon. Tan Sri Raus Bin Md Sharif,
President of Court of Appeal,

3. The Rt. Hon. Tan Sri Zulkefli Bin Ahmad Makinudin,
Chief Justice of Malaya,

4. The Rt. Hon. Tan Sri Richard Malanjum,
Chief Justice of Sabah and Sarawak,

5. The Hon. Tan Sri Abdul Gani bin Patail,
Attorney General of Malaysia,

7. The Hon. Justice Lee Seiu Kin
Representative of Singapore Judiciary

8. The Hon. Judges of the Federal Court, Judges of the Court of Appeal, Judges and Judicial Commissioners of the High Court, retired Judges and members of the Judicial Appointment Commission (JAC);

9. His Excellencies, the High Commissioners and Ambassadors,

10. The Hon. Attorney General of Sabah;

11. The Hon Attorney General of Sarawak;

12. Presidents of Malaysian BAR, Sabah Law Association and Advocates' Association of Sarawak

13. Representatives of Law Society of Singapore, Taiwan Bar Association, Law Society of Brunei, Law Counsel of Australia, The German Federal Bar, The Inter-Pacific Bar Association, Yangon Bar Association, The Law Society of New South Wales, The Bar Association of India and LAWASIA;

14. Judicial and Legal officers;

15. Members of the Malaysian Bar, Sabah Law Association and Advocate Association of Sarawak;

16. Distinguished Guests;

17. Ladies and gentlemen.

A. INTRODUCTION

[1] On behalf of the Malaysian Judiciary, I would like to extend a warm welcome to every one of you to this morning's ceremony. To all our distinguished and honoured guests, I thank all of you for the effort you have made to be with us this morning despite your busy schedule. We are indeed honoured by your presence.

[2] This is the fourth year that I am addressing this annual event as Chief Justice. The Opening of The Legal Year was revived in 2009 and since then it has become an important event in our legal calendar. It is an occasion for us to assess our achievements for the last one year and setting out what we hope to accomplish in the current year.

[3] First, let me express my gratitude to the former Chief Justice, The Yang Amat Berbahagia Tun Dato' Seri Zaki Tun Azmi for making time to be with us this morning. I would like to thank Yang Amat Berbahagia Tun for his contribution in bringing the Judiciary to the level as it is today. I would also like to put on record our sincere appreciation to our former colleagues for attending this morning's ceremony. Your support inspires us to forge ahead with greater zeal.

[4] May I begin by saying that, our function as judges is bound up with the Judicial and legal system of this country. We recognise that the justice system is a fundamental pillar of our society and in fact is one of its continuing strengths. There would of course be the occasional jagged lines of intersection between law and other branches of government; but basically it would always be the Rule of Law which holds sway.

[5] Taken in its proper context, it is comforting to note that the twin principles of the Rule of Law and the independence of the Judiciary are very much ingrained in our judges, those who are still serving and those who have since passed on.

[6] In a recent Reference held on 19 November 2014 in Remembrance of His Majesty Sultan Azlan Shah Al-Magfurlah, we mourned the loss of our brilliant jurist, whose rich contribution to Malaysian jurisprudence has left us a lot poorer in his passing. With His Majesty's many legal accomplishments, we will ensure his legacy will live on.

[7] In this regard, I would like to say that in the ordinary course of our judicial functions, we are repeatedly called upon to make judgments which involve the rule of law which impinges on the exercise of judicial discretion and independence. I will make it my mission that we not only continue His Majesty's sterling example, we will also add to his corpus.

[8] A bird's eye view of recent developments in our decision making process confirms the present reality namely that we exercise our judicial powers freely and independently, within the purview of the Constitution, statutory law and the common law, arriving at a diverse range of decisions.

[9] The multifarious issues the courts deal with on a daily basis, reflect the very different aspects of life in our community: on the economy, politics, social problems, commerce and international matters. The integrity of the law we preserve ensures its transparency and this manifestation of the Rule of Law which we imbibe, is available to the public in the reasoned judgments of the court. The judgments are available on line and in the law reports.

[10] What is pivotal to the Judiciary is that our judicial independence and respect for the integrity of the law and constitutional duty are affirmed. In upholding these values, there is often a fundamental tension between protecting the interests of the community at large over the constitutional protection of

individual rights. In maintaining these values and the philosophy, which are all important in a multi-racial country, certainly peace and harmony and the stability of the nation must take centre place.

[11] In a society as diverse as ours, it is inevitable that no one interest shall prevail over others. The Bench is always conscious of the various interests at stake, which in many instances, may from time to time, conflict with one another.

[12] It is essential that the law operates well in practice. This can only happen if all the stakeholders, especially lawyers and members of the Bar are faithful to their rules of conduct, as infidelity to the latter would result in dire consequences.

[13] No doubt the word “profession” means many things to many people. But for our purposes here, I would like to emphasise that it is not just the intellectual skill that comes with work at the Bar, but also the integrity which should be inherent in lawyers, as officers of the court.

[14] Even if the Courts’ decisions do not find favour with lawyers and members of the Bar, they should be temperate in their reaction and exercise restraint, circumspection and plain good manners before making unwarranted criticism against the Judiciary, especially in public debates and discussions.

[15] True to our profession we must carefully manage our differences in order that they may not develop into attitudes that are inimical to judicial harmony amongst stakeholders. I recognise that judges are not infallible. I share the view expressed by Lord Pannick, who once observed that –
“... Judges ... must be open to criticism because in this context, as in others, freedom of expression helps to expose error and injustice and it promotes debates on issues, of public importance.”
(Pannick: {2014} PL 5, 9)

[16] The irony is this. In recent months a few senior lawyers who earn their bread and butter in the very environment they vilify, make some caustic remarks against the Bench. If unchecked, unrestrained public criticism of judges undermines confidence in the Judiciary. This in turn, has deleterious consequences for the administration of justice. As Lord Judge CJ once remarked:-
“... it does matter to the welfare of the community, and the preservation of the independence of the Judiciary, that the confidence of the community in its judiciary should not be undermined.”

[17] Should Judges respond?

[18] The Kilmuir “rule of silence” apparently still holds good.

[19] It has been suggested by some jurisdictions that an institutional reply can be had, where either the Court Officer or the Chief Justice himself gives a response (to criticisms) which is temperate and measured. Lord Denning best expressed this phenomenon when he said that –
“... Silence is not an option when things are ill done.”

[20] Let me be more specific. I must say it is disheartening to note that a handful of lawyers have repeatedly made use of public media and/or public fora to make unjustified criticism against the judiciary and more so on the decisions of court, knowing well that as members of the Malaysian Bar they are obliged to act with candour, courtesy and fairness. And any attack on the judiciary which undermines the confidence of the public in this institution and amounts to an attack on the administration of justice.

[21] In an article which appeared in online news portal captioned as “Judiciary comes under attack for not respecting the rule of law”, it was reported, “Most Malaysian judges fail to recognise that the Federal Constitution is the supreme law of the land, and this is the reason public law litigation is dead in this country”. It was suggested that in most cases which involved public interest litigation the Attorney General’s Chambers would turn up and oppose the application for leave and such public interest litigation suffers an early demise.

[22] With regard to the above, there are two points which I wish to make.

[23] First, the preponderance of Judicial Review cases which are disposed of in our court on a daily basis, belies that statement. And these cases of course deal with fundamental rights as enshrined in our constitution.

[24] Secondly, the allegation that public law litigation is dead in this country is an inaccurate statement in the light of the myriad of decisions in the past year or so where the Malaysian Courts have upheld constitutional rights vigorously.

[25] On the issue of competency, at a recent Reference held in Remembrance of His Majesty Sultan Azlan Shah Al-Magfurlah, the Chairman of the Bar spoke in glowing terms of the "Golden Age" of the Judiciary then. Well to my mind, it stands to reason that that particular period was also the "Golden Age" of the Bar.

[26] Which boils down to this: that the level of competence and civility at the bar, relates directly to the level of professionalism of the legal profession. It is definitely a question of reciprocity. If at all senior lawyers have good cause for complaint against the Bench, it would do well for them to examine their approach to the system.

[27] As far as I am concerned, Judges are entitled to expect that counsel will treat the court and each other with fairness, courtesy and candour. For as long as I can recall, the Bench has long been tolerant of the somewhat declining standards and professionalism of a small number of members of the Profession.

[28] It is time therefore that the Bench brings pressure to bear on any infractions made by members of the Bar. In any case, it is important that the Bar fosters civility and professionalism, where senior members can directly shape the culture of the profession. I take the view that no matter how comprehensively young lawyers have been taught, if the values of professionalism are not reinforced in their place of work, they will not take root.

[29] But for the most part, I am of the view that the quality of our lawyers is well recognised and I take pride in that quite a number of them enjoy high international standing.

[30] It is all the more compelling therefore that they attempt to bridge the gap. On a daily basis, in the functioning of the courts, the legal profession plays a pivotal role, for a lawyer not only carries his professional duties he is trained for towards his client, he also assumes a role in safeguarding the sanctity of the legal system, for to do otherwise would be detrimental to its proper functioning.

[31] In my view, no lawyer deserves his scholarship if he continually contaminates the system with intemperate behaviour. The dignity and honour of the legal profession is determined by the way in which lawyers uphold the rule of law, due process and respect for the Judiciary.

[32] In addition as has been mentioned, their unwarranted criticism threaten the foundation of the rule of law and weakens the Judiciary in the performance of its constitutional duties. This is serious because given the realities of our legal system and judicial structure, it is particularly urgent that the credibility of the courts do not suffer when it is to the courts and nowhere else that the citizenry go, to protect their constitutional rights.

[33] The Judiciary on the other hand acknowledges that it is unable to discharge its duties and administration of justice without the unrelenting commitment and participation of the Bar. In other words, the Bench and the Bar enjoy a symbiotic relationship. This also holds true for members of the Attorney General's Chambers and other stakeholders.

[34] Therefore I trust that from now, both the Bar and the Attorney General's Chamber will not only come down hard on those who breach the rule of conduct they will also defend the Judiciary in the

face of any unwarranted criticism because historically and constitutionally, this is a role which these stakeholders have adopted in all jurisdictions. It is essential that they defend the judiciary, because judicial ethics constrain the ability of the Judiciary to respond.

B. JUDICIAL APPOINTMENT, PROMOTION AND RETIREMENTS IN 2014

[35] I have said on various occasions that the independence of our Judges, the respect for the integrity of the law and the constitutional duty of the Judiciary are central to the Malaysian legal system. A major component to this is the practical implementation of the rule of law, which in turn mandates the ability to dispense justice effectively.

[36] In this connection the calibre of our serving judiciary is called into question. The reason we need to continue to attract the best and brightest of the legal profession to judicial office is simply because of the vital role each Judge plays in ensuring that the rule of law is carried out faithfully. The dynamics of the case load in courts are now vastly different from what they were, in days gone by.

[37] Thus the appointments made in the Judiciary since 2009 amply reflect the high quality of our Judiciary. It must remain our policy that only persons of the highest calibre are appointed as judges. They are appointed by a statutory body known as the Judicial Appointments Commission (the JAC), headed by me as the Chief Justice, sitting with 8 members, whose recommendations would be made to the Prime Minister.

[38] On the issue of judicial appointments, an unwarranted statement was made that

[39] The judicial appointment process cannot be expected to be conducted in a public forum. An annual report of the JAC is tabled in Parliament annually as required by law detailing the activities of the JAC. The criteria for the appointment and promotion of judges are also clearly set out. I am confident there is considerably more transparency since the formation of the JAC compared to appointments prior to that period.

[40] Definitely there is considerably more diversity in the appointment of judges as in the past 7 or more years considerably more members of the Bar have been appointed to the Bench. The statistics will bear this out. The suggestion that the JAC acts arbitrarily lacks credibility and cast doubt.

[41] In this regard, I will say quite emphatically that since the establishment of the JAC, all judicial appointments and promotions have gone through a detailed selection process based on all criteria necessary and imperative for such appointment and promotion. As a result, over the last several years, there has been a robust process of appointments to the bench consisting of several qualified, competent and outstanding members of the Legal and Judicial Services and the Bar.

[42] It was the wish of the Bar that more legal practitioners should be absorbed into the judiciary. The JAC has done exactly that. I have to say quite candidly that the appointment of capable and competent members of the Bar combined with the best of the service, have exponentially improved the performance benchmark of the judiciary as a whole. As a result, today we see the highest number of legal practitioners on the bench. Indeed, one third of judges in the Court of Appeal are from the Bar. We have had occasions when there has been a coram comprising of former members of the Bar. All of this was made possible because of the sterling efforts of the JAC who selected the right candidates.

[43] The year 2014 saw the appointment of 12 new Judicial Commissioners, five from the judicial and legal service and 6 from practising lawyers and one from the academia. These new appointees brought with them a varied range of legal experience and expertise ranging from banking law, commercial law, shipping and construction law. I am sure their vast experience and specialisation would further enrich the judiciary and contribute to the development of the law.

[44] Last year 10 Judicial Commissioners were confirmed as judges of the High Court of Malaya and two to the High Court of Sabah and Sarawak. At the same time 7 High Court Judges were promoted to the Court of Appeal Bench and 1 Court of Appeal judge was appointed to the Federal Court bench.

[45] In the same year, 5 judges retired on reaching the mandatory retirement age, they are, one from the Federal Court, two from the Court of Appeal and two from the High Court. I take this opportunity wishing all of them a happy and healthy retirement.

[46] As of today, we have 14 Federal Court judges, 28 Court of Appeal judges, 58 High Court judges and 28 Judicial Commissioners. This gives a total of 128 judges of the superior court.

C. COURTS PERFORMANCE 2014

[47] I will now briefly present the courts' performance in 2014.

First, the Federal Court.

(i) Federal Court

[48] There are three main categories of cases that come before the Federal Court namely, leave applications, civil appeals and criminal appeals.

STATISTIC OF FEDERAL COURT YEAR 2014 (AS AT 31 DECEMBER 2014)

Types of Cases	Balance Brought Forward	Number of Cases Registered	Number of Cases Disposed	Balance Carried Forward
Leave Application	614	752	725	641
Civil Appeal	159	131	106	184
Criminal Appeal	471	300	213	540
Habeas Corpus	10	38	20	28

Table 1

Leave Applications

[49] Leave applications form the bulk of cases in the Federal Court. In 2014 a total of 752 leave applications were registered. The court disposed of a total of 725 leave applications out of 1366 pending in 2014. The disposal was lower than the registration, this is due to a sudden surge in the number of applications compared to the previous year. The balance of leave applications as at 31st December 2014 stood at 641. For the record, a total of 89 leave applications were allowed in 2014 i.e 12% of total applications.

Civil Appeals

[50] As for civil appeals, 131 cases were registered in 2014. The Court succeeded in disposing of a total of 106 appeals out of 290 pending, leaving a balance of 184. There is a slight increase in pending civil appeals as compared to the previous year. In view of this more sitting will be allocated for civil appeals this year. The problem will be in getting the free date of counsel. This is because these appeals are invariably handled by the senior counsel who normally have far too many cases then they could handle. I hope the Bar can look into this to make sure that counsel do not take more cases than they could handle.

Criminal Appeals

[51] In 2014, a total of 300 criminal appeals (excluding habeas corpus) were registered. A total of 231 appeals were disposed in 2014 compared to only 145 in 2013. Despite that we are still left with 540 appeals as at 31st December 2014.

[52] The increase in the number of appeals disposed of was due to the special panel set up to hear criminal appeals in 2014.

[53] In 2014, the Federal Court Registry received a total of 221 appeal records from the Court of Appeal in respect of appeals registered in 2012 and 2013. As a result more appeals were ready for hearing in 2014. This explains the increase in the number of criminal appeals in 2014.

[54] To expedite the disposal of criminal appeals, the court is now looking at several alternatives. Besides maintaining the special panel to hear criminal appeals, more appeals will be fixed per sitting to cater for the influx of criminal appeals. The number of special panel sittings in a month will also be increased from 12 to 16. I sincerely hope that with these new measures, coupled with the co-operation and commitment from the Attorney General's Chambers and the Bar, more criminal appeals could be cleared in 2015.

New Measures - Practice Directions

[55] For the purpose of streamlining the procedure for civil appeals and leave applications, practice direction No. 1 of 2014 dated 3.3.2014 was issued. With this practice direction, parties are expected to strictly comply with the two-week timeline for the filing of written submissions in order to give judges adequate time to prepare for the hearing.

[56] Allocated time for oral submissions for leave applications was also introduced by this Practice Direction. The duration for oral submissions allotted to each party is now limited to 15 minutes, with a further extension at the discretion of the chairman of the panel.

[57] The Practice Direction also requires a core bundle to be filed at the Registry not later than 14 days from the hearing date. This helps to narrow down the issues before the court. However, parties are at liberty to refer to the appeal record should the need arise.

[58] With these new measures we hope to dispose more cases this year and hence reduce the waiting time for both civil and criminal appeals.

Ladies and gentlemen,

(ii) Court of Appeal

[59] In 2014 the Court of Appeal celebrated its 20th anniversary. A number of programmes were held culminating in a grand dinner, attended by current and past judges of Court of Appeal and other dignitaries. On the performance of the Court in 2014 a total of 5,159 appeals were disposed of against a registration of 4,147. The number of pending appeal now stands at 3,209. 19

STATISTIC OF COURT OF APPEAL YEAR 2014 (AS AT 31 DECEMBER 2014)

Types of Cases	Balance Brought Forward	Number of Cases Registered	Number of Cases Disposed	Balance Carried Forward
Leave Application	104	621	646	79
Civil Appeal	3,341	3,295	4,215	2,421
Criminal Appeal	880	852	944	788

Table 2

[60] I am pleased to report that the reforms embarked upon by the Court of Appeal since year 2011 are showing results. As at 31 December 2014, there are only 676 pre-2014 appeals pending before the Court of Appeal. The rest are 2014 appeals which constitute 79% of the pending appeals. These 676 pre-2014 appeals are civil and criminal appeals which originated from the High Court. Appeals from the Subordinate Courts are more or less current.

[61] In 2014, the Court of Appeal had fully implemented the e-Filing system for application for leave to appeal (Code 08) in Peninsular Malaysia. This had resulted in an early fixing and disposal of the applications. For the record, 90% of Code 08 were heard and disposed within three (3) months from the date of registration.

[62] For 2015, the President of the Court of Appeal has set a target to reduce the waiting time for all appeals to not more than 12 months. Special attention will be given to capital cases and cases involving government servants.

Ladies and gentlemen,

(iii) The High Courts of Malaya

[63] Throughout 2014, the High Court of Malaya disposed a total of 104,428 civil cases, leaving 45,710 civil cases pending as at 31st December 2014.

**STATISTIC OF HIGH COURT OF MALAYA YEAR 2014
(AS AT 31 DECEMBER 2014)**

Balance Carry Forward	Registration Of Cases	Disposal of Cases in 2014	Pending Cases as at 2014
CIVIL CASES			
49,824	100,314	104,428	45,710
CRIMINAL CASES			
2,927	4,648	4,450	3,125

Table 3

[64] As for criminal cases, the High Court of Malaya disposed a total of 4,450 criminal cases and as at 31st December 2014 there were 3,125 pending criminal cases. (This includes criminal appeals)

[65] Most of the pre-2013 Civil and Criminal cases in the High Court of Malaya had been disposed of. However, at the end of 2014, there were still 986 pending pre-2013 civil cases comprising of 589 writ actions and 397 other cases. As for criminal cases, at the end of 2014, there were 276 pending pre-2013 cases which comprised of 144 trial cases and and 132 appeals and miscellaneous matters.

[66] It is our projection that these cases will be disposed of by June 2015. This will be done by re-distributing cases among the judges with strict timelines.

[67] I am confident this can be achieved. Constant monitoring by Yang Amat Arif the Chief Judge of Malaya, assisted by the Managing Judge in each state, have contributed to the high rate of disposal of cases in the High Court of Malaya.

Practice Direction For Pre Trial Case Management For Civil Cases In The High Court Of Malaya

[68] For the purpose of streamlining the procedure for pre-trial case management for civil cases in the High Court of Malaya, Practice Direction No. 2 of 2014 – Pre Trial Case Management for Civil Cases in Accordance with Order 34 Rules of Court 2012 was issued on 2nd July 2014.

[69] With this practice direction, parties are required to attend case management before the Registrar within thirty (30) days from the date of filing of the writ. All new civil cases are given priority and managed at the earliest stage.

[70] This Practice Direction also outlines the directions to be given at any stage of the proceedings including service of writ, filing of bundles for trial, mediation and also directions for hearing of interlocutory applications.

[71] This new practice direction now provides for standard directions and timelines to be followed by the Registrar and Judges alike. This helps to resolve the long standing problem faced by practitioners, that is the lack of uniformity in case management directions among the High Courts in Malaya.

[72] It is my hope that with the implementation of this new practice direction, cases can be disposed more expeditiously at lower cost to the parties without compromising on the quality of justice.

(iv) High Court Sabah and Sarawak

[73] Throughout 2014, the emphasis was to dispose of cases registered in 2014 within the stipulated timeline and those cases in the ageing list. Constant monitoring by the Chief Judge of Sabah and Sarawak and the introduction of a new monitoring tool, in the form of an online time sheet contributed to the effective disposal of cases in both the High Courts and Subordinate courts.

[74] The time sheet is a computer-generated daily report for each Judge and judicial officer to record the number of hours utilized by him or her in open court hearings as well as chamber matters. The daily report is triggered via e-mail to the Chief Judge and to the Monitoring Centre at the end of each working day.

[75] The High Courts in Sabah and Sarawak disposed a total of 5,704 civil cases and leaving about 1,865 cases pending. As for criminal cases, the Courts disposed a total of 629 criminal cases and as at 31st December 2014 there were 159 pending criminal cases. (This figures include appeal cases)

STATISTIC OF HIGH COURT OF SABAH AND SARAWAK YEAR 2014 (AS AT 31 DECEMBER 2014)

States	Balance Brought Forward	Number of Cases Registered	Number of Cases Disposed	Balance Carried Forward
CIVIL CASES				
SABAH	1,081	3,205	3,136	1,150
SARAWAK	801	2483	2568	715
CRIMINAL CASES				
SABAH	25	329	313	41
SARAWAK	156	310	316	118

Table 4

Ladies and gentlemen,

(v) The Subordinate Courts in Semenanjung Malaysia

[76] I am pleased to report that the Sessions Court had disposed a total of 44,145 civil cases and leaving about 14,681 cases pending. As for criminal cases, the Sessions Court disposed a total of 36,412 criminal cases and as at 31st December 2014 there were 7,054 pending criminal cases.

**STATISTIC OF SESSIONS COURT IN SEMENANJUNG MALAYSIA YEAR 2014
(AS AT 31 DECEMBER 2014)**

Type of Cases	Balance Brought Forward	Number of Cases Registered	Number of Cases Disposed	Balance Carried Forward
Civil	15,949	42,877	44,145	14,681
Criminal	7,038	36,428	36,412	7,054

Table 5

[77] As for the Magistrate's Courts, they had disposed a total of 261,607 civil cases and leaving about 47,291 cases pending. As for criminal cases, the Courts disposed a total of 142,785 criminal cases and as at 31st December 2014 there were 21,901 pending criminal cases¹.

**STATISTIC OF MAGISTRATES' COURT IN SEMENANJUNG MALAYSIA YEAR 2014
(AS AT 31 DECEMBER 2014)**

Type of Cases	Balance Brought Forward	Number of Cases Registered	Number of Cases Disposed	Balance Carried Forward
Civil	48,762	260,136	261,607	47,291
Criminal	20,336	144,350	142,785	21,901

Table 6

(vi) Dedicated Courts –

¹ Criminal cases exclude traffic cases and other cases under codes 86-89

Corruption Court

[78] There are a total of 14 specialised corruption courts all over Malaysia. These courts were set up in support of government's effort in fighting corruption.

[79] The timeline for the disposal of corruption case is 1 year from the date of registration. These dedicated courts have managed to clear 907 cases from the total registration of 1,212. The disposal rate for 2014 was 75.6%.²

Environmental Court

[80] The establishment of dedicated environmental courts at the Sessions and Magistrates' Court is to enhance the administration of the environmental cases. The timeline set for the disposal of environmental cases is six months from the date of registration.

[81] From the date of its establishment in 2012 the Environmental Court had disposed a total of 438 out of 440 pending cases. The rate of disposal within 6 months stood at 99.5%.³

[82] Despite the heavy work the load the subordinate courts in Semenanjung Malaysia were able to clear their cases within the time line. For the record most cases in these courts are now current – meaning 9 months and below.

(vii) Subordinate courts in Sabah and Sarawak

[83] The Sessions Court in Sabah and Sarawak disposed a total of 3,135 civil cases and leaving 1,056 cases pending. As for criminal cases, both Courts disposed a total of 9,123 criminal cases and as at 31st December 2014 there were 722 pending criminal cases.

**STATISTIC OF SESSIONS COURT OF SABAH AND SARAWAK YEAR 2014
(AS AT 31 DECEMBER 2014)**

States	Balance Brought Forward	Number of Cases Registered	Number of Cases Disposed	Balance Carried Forward
CIVIL CASES				
SABAH	582	1,750	1,817	515
SARAWAK	418	1,441	1,318	541
CRIMINAL CASES				
SABAH	488	7,492	7,441	539
SARAWAK	14	1,851	1,682	183

Table 7

[84] The Magistrate's Courts in Sabah and Sarawak disposed a total of 19,475 civil cases and leaving 5,116 cases still pending. As for criminal cases, the Courts disposed a total of 27,306 criminal cases and as at 31st December 2014 there were 3,919 pending criminal cases. 27

**STATISTIC OF MAGISTRATE COURT OF SABAH AND SARAWAK YEAR 2014
(AS AT 31 DECEMBER 2014)**

States	Balance Brought Forward	Number of Cases Registered	Number of Cases Disposed	Balance Carried Forward
CIVIL CASES				
SABAH	1,822	11,723	10,234	3,311
SARAWAK	1,415	9,631	9,241	1,805
CRIMINAL CASES				
SABAH	4,490	19,208	21,571	2,127
SARAWAK	1,887	5,640	5,735	1,792

Table 8

Ladies and gentlemen,

D. NEW FEATURES IN 2004

Setting Up Of The Coroner's Court

[85] Due to public concern over the increase of custodial death, the Judiciary had established 14 dedicated Coroners' Courts in April 2014 with the task of independently inquiring into how, when and where these persons died. Fourteen senior Sessions Court Judges were appointed throughout Malaysia as Coroners.

[86] To avoid any unnecessary delay in disposing these cases, a 9 month timeline is set from the date of the commencement of the inquiry to its conclusion.

[87] From the date of its establishment in April 2014, the Coroners' Courts had disposed a total of 2,127 death inquiry cases out of 2,606 pending cases. This is indeed a staggering figure.

E-COURT Finance

[88] I am happy to report that, on 15 August 2014, e-Court Finance System (E-CFS) had been implemented at the Melaka Court Complex. The e-Court Finance system is a computerized accounting system introduced to replace the manual accounting system. Under this system, a new mode of channelling payments for filing of court documents has been introduced where payments can be made online via the FPX or through the Kiosk or e-POS system located at the courts. Payment of fines for traffic summons ordered by the courts can be made through this system.

[89] This system makes it easier for lawyers and the public to make payments to court. Starting this year, the judiciary will also introduce a new system known as e-Purse under the e-court finance system. The e-Purse is similar to a debit card system. Customers of the court can debit an amount of money in e-Purse accounts at selected banks. The money will be used as payments for the service received such as filing of documents in civil cases. The customers can reload their account at the bank counters, ATM, CDM, Internet Banking or via Auto Reload.

E. EDUCATION AND TRAINING

Judicial Officers Training Road Map

[90] As I mentioned in the previous years, continuing legal education for judges and judicial officers will continue to be given emphasis. Last year the Office of the Chief Registrar had launched the Judicial Officers Training Road Map as an initiative to ensure that all Judicial Officers are equipped with the requisite judicial skills and knowledge necessary in improving their judicial competency.

Long Distance Education

[91] I am happy to inform that we have also embarked on long distance education courses with foreign judiciaries. The first course was conducted in 2014 via video conferencing involving our judicial officers in Putrajaya and judges and law clerks at the US Court of Appeal of the Ninth Circuit in San Francisco.

Sharing Experience with Foreign Jurisdiction

[92] Last year there were a number of visits made by members of foreign judiciaries to our court. The main purpose of the visit was to look at our the E-Court system and learn from our backlog clearing program. ILKAP and the Chief Registrar of the Federal Court's Office had worked jointly organising a series of training for Sri Lankan judges at their request. I had also received a request from another Judiciary expressing their intention to send their judges for training in our Kuala Lumpur Commercial Court in the coming year. Through these exchanges not only can we learn from each other but it will also help foster closer relation with other judiciaries around the world.

F. INTERNATIONAL ENGAGEMENT

[93] Last year the Malaysian Judiciary hosted the 36th ASEAN Law Association Governing Council Meeting and the 2nd ASEAN Chief Justices' Meeting in Kuala Lumpur. Both events were well attended. It was indeed an honour for Malaysia to play host to 9 ASEAN Chief Justices. The Chief Justices agreed to cooperate on the regionalization of civil processes within ASEAN member states, training for judges and the establishment of ASEAN judicial portal. These judicial cooperations will further strengthen the existing ties amongst ASEAN judiciaries.

G. JUDICIAL TRANSPARENCY

[94] The Judiciary continues in its commitment to make the justice system in this country more transparent and accessible to all. One of the measures taken to engage with the public is ensuring that court judgments are accessible and free of charge, to the public including people who are not

parties to court proceedings. Our website provides grounds of judgments of the appellate courts and some State Courts's websites provide judgments of the High Court and Subordinate Courts. We are currently in the midst of improving and enhancing our website to give more impact to all our online visitors. It is expected that our new website will be ready by June this year.

[95] The Judiciary had also designed a special court tour programme to encourage students to visit the court and experience it live. The Court Tour Programme (CTP) started in 2011 with a more focused tour aiming to educate students on the trial and appeal process. In 2014, a total of 6096 school and university students visited the Federal Court located in Putrajaya and four other locations namely Kuala Lumpur, Shah Alam, Penang and Johor Bharu.

[96] On another note, the public have frequently complaint that it has difficulty in understanding basic court procedures. In addressing this issue, the Office of the Chief Registrar had published 10 brochures on various topics relating to court procedures. The Judiciary had, with PEMUDAH jointly published a guide book on civil procedure and I am pleased to announce that the book was published in August 2014.

H WAY FORWARD

Expansion Of The E-Court System

[97] Since 2009, the e-court system comprising e-filing, CMS and QMS have been set up in the main Court Complexes namely Kuala Lumpur, Shah Alam, Ipoh, Georgetown, Johor Bharu and Putrajaya. Having successfully implemented the E-Court System, we are now planning to expand the e-court system to all the courts throughout Malaysia. Currently, only CRT system had been installed in all courts throughout Malaysia. I am sure many of you would agree that with the E-Court system, the case backlog have been substantially reduced and trial process is now two to three times speedier. On this note, I would like to share the sentiment expressed by Lord Saville of Newdigate of the House of Lords in his lecture 'Information Technology: A Tool for Justice' where he observed;

“Delay, expense and unavailability do exist and I am convinced that the appropriate application of information technology is a formidable means of tackling these defects in our justice system”.

[98] The Malaysian E-Court system has now become a model for Brunei and Sri Lankan Courts. Last year, the teams from both countries visited our courts to learn from our experience.

Dedicated Courts For Anti-Profiteering Cases And Atipsom Cases

[99] This year 2 new dedicated courts will be established namely,

(i) the Anti Profiteering Court dealing with cases under the Goods and Services Tax Act 2014 (Act 762) and Price Control and Anti-Profiteering Act 2011 (Act 723), and

(ii) the court to hear cases under the Anti-Trafficking of People and Anti-Smuggling of Migrants Act 2007 (Act 670)

[100] The date for the setting up of these courts have yet to be confirmed. 33

Continuing Education For Judges

[101] The Judicial Academy which is responsible for training of judges has been allocated bigger budget this year. This means that more training sessions can be conducted for Judges in specific

areas of law, according to their specialization. We will also be sending Judges to attend seminars and conference abroad as in the past.

Environmental law

[102] In the light of the recent natural disaster that have hit a number of states, we are contemplating setting up specialized environmental court for civil cases. We hope that this will help to expedite the disposal of environment related cases both at the High Court and at the Subordinate Courts. The Chief Judge of Malaya's and Chief Judge of Sabah and Sarawak's office will conduct a study to asses the need for such courts in the respective High Court.

Judicial clerkship

[103] The Judiciary will also embarking on a new scheme entailing the implementation of a Judicial Assistant or Judicial Clerkship programme with law school graduates who have graduated at the top of their classes from premier universities world-wide. This will serve the dual purpose of both assisting judges in the course of their work in carrying out legal research, as well as enhancing and diversifying the standards of research and judicial writing amongst our judicial officers. 34

[104] Such apprenticeships in turn will offer an unparalleled and prestigious opportunity for students to engage with senior and experienced judges and develop as writers and legal thinkers with an experienced mentor as a guide. The requisite legislative amendments can be made to enable the tenure of these clerkship to account towards pupillage for the purposes of qualifying for the Bar. Proposed placements will initially be with senior judges of the appellate courts and be expanded gradually.

Ladies and gentlemen,

I. CONCLUSION

[105] As we come to the end of this morning's proceedings, let me collect some of the main threads that run through my speech.

[106] Our core mission first of all, is to ensure that the public is served in the best way we can provide. This means that we need to work in harmony with all stakeholders.

[107] Secondly as I have indicated, professionalism is understood to be at the heart of being an ethical judge and an ethical lawyer and the basis upon which we uphold public confidence in the justice system. It also means meeting our commitment in our obligations to serve the public, defending the rule of law and promoting true access to justice.

[108] Thank you for your presence this morning and I wish each of you and everyone present, a happy and blissful year ahead.

**TUN ARIFIN BIN ZAKARIA
CHIEF JUSTICE OF MALAYSIA**