

**(TRANSLATION)****SPEECH ON THE APPOINTMENT AS CHIEF JUSTICE, MALAYSIA**

By

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I am grateful to God Al-Mighty for, without His blessing, even though not mentioned in the Constitution, this appointment would not have happened. I thank His Majesty the Yang di-Pertuan Agong, the Rulers' Conference and the Rt. Hon. The Prime Minister of Malaysia for this appointment.

I am aware that this appointment is a heavy burden on me. It is more so when it happens at a very challenging time, that is, when public perceptions of the Judiciary are disturbing; when the integrity of the courts in the administration of justice is doubted; when appointments and the behavior of Judges and their commitments in the discharge of their duties, are all being questioned.

The fact that such negative perceptions exist does not necessarily mean such perceptions are all true. But, public perceptions are not formed in a matter of days. It takes time to develop and spread based on facts heard and seen by them which may be true and may be not. In any event, we cannot simply brush them aside. To the Judiciary, the very fact that such negative perceptions exist is sufficient for us to take them seriously. This is because the Judiciary is the only agency that has been entrusted by the Constitution to administer justice between individuals and individuals, individuals and the government, individuals and companies, companies and companies and so on, involving human life, property, human rights and so on. Besides, the Judiciary is the last frontier of a nation. Whatever views the people may have regarding the other branches of the government, so long as they still have confidence in the integrity and the effectiveness of the courts, there is still room for the continuity of a civil society and law and order. When the people no longer have confidence in the courts, there will be chaos.

Therefore, to me, whether the perceptions are true or not is immaterial. What is important is that they exist. So, we have to act to correct the perceptions and we have to act fast. There is really no short cut to it. The only effective way is for all judges, officers and staff of the courts at all levels to work hard, honestly and transparently. We have to reflect on ourselves to see whether there is anything in our behavior, our relationships, including those of our immediate family members and close associates

which may give rise to such negative perceptions and, if there are, to correct the situation. We have to work hard to prove that the perceptions are wrong, or even if there are some truths, that the causes have been remedied. In other words, we have to revive public confidence, not through slogans, not through propaganda, not only through prayers, but by showing results which by themselves will negate the perceptions. Toward that end, we will have to work hard and honestly.

I do not say that the Judges are not hardworking or are not committed. In fact, I dare say that they are, on the whole, very committed and that they are very hardworking. One of the factors that have led to the problems that we now face is the tremendous increase in the number of cases and their complexity. Just look at the number of lawyers in practice, the number of cases fixed at every sitting, the length of the trials or hearings, the length of the notes of evidence recorded by the judges themselves, the thickness of the appeal records and authorities that the judges have to read and the length and complexity of the grounds of judgments that they write.

Besides, Judges do all these work themselves. They themselves try the cases, listen to the witnesses and the arguments of counsel, record the notes of evidence, read and analyze the documents and the records of appeals, research and read the authorities and write the grounds of judgments. All these should be understood.

Similarly, when we talk about the number of judgments not written or delayed, we should also take note of the number of judgments that have been written by a judge, the complexity of the cases and the quality of the judgments. The volume of work at one place is not the same as at another place. The volume of work and the complexity of the cases at the High Court at Kuala Trengganu or Bintulu, for example, cannot be compared with those in Shah Alam and Kuala Lumpur. This too should be taken into account.

Perhaps, as in any organization, there are some judges whose performance is not satisfactory. They should work even harder.

At times, we hear rumors regarding allegations of corruption involving judges and officers of the courts. So far, I do not know whether they are true or not. If they are true, I appeal to those who have the information about such wrong doings to come forward. I shall not compromise on this issue. In this regard, I would also like to draw the attention of lawyers that, from my own observations, there is hardly any allegation of corruption or wrong doing involving a judge or an officer of the court in which at least one lawyer is not involved. I appeal to the Bar Council to co-operate to discipline their members while I will do my part to discipline the members and officers of the Judiciary.

The independence of the Judiciary must be safeguarded. However, the independence of the Judiciary does not mean siding any party in any dispute such as siding an individual as against the Government, an employee as against an employer, a victim of an accident as against an insurance company or vice versa.

The independence of the Judiciary means giving decision in a case based on law and evidence adduced in court without bias, without being influenced or pressured by any

party. That our decision is not favorably received by a party is normal. In every decision, at least one party is unhappy because he loses. At times, both parties are unhappy because even the party who wins the case may not get everything he wants. That is why there are appellate courts. But, no matter how many tiers are provided for appeals, the decision of the final court will still be questioned. That is normal.

Beside, whenever there is a case that attracts public attention, the public, indeed even organizations, usually, have taken their stand on the decision that they would like the court to deliver. If, coincidentally, the decision of the court suits their view, they would praise it, even if the judgment, in law and on the facts adduced in court is not a sound judgment. On the other hand, if the decision, coincidentally, is contrary to the stand that they have taken, they would condemn it even though, in law and on the facts adduced in court, it is a sound judgment. In such a situation, the “independence of the Judiciary”, “impartiality” and “justice” is equated with a decision that is favored by a party or a group. Very often, praises and condemnations are made without even reading the judgment and analyzing the reasons. Judges should not be perturbed by such reactions. What is important is that we discharge our duties honestly and to the best of our ability, according to law.

Regarding the independence of the Judiciary and separation of powers, the relationship between the Judiciary and the other branches of the Government should be based on mutual respect. Just as the Judiciary does not like its jurisdiction to be encroached upon, the Judiciary too should respect the jurisdiction of the other branches of the Government. The three branches of the Government should move in tandem, within the limits of their respective jurisdictions, in the interest of Malaysia.

Quite often, the independence of the Judiciary is seen from the angle of the pressure and influence of the Executive on the Judiciary while certain groups, including those from abroad, that try to do the same, on the ground of assisting the court, is not seen in the same light. The reality is, they too have taken a stand in the case and they would like the court to decide the way they want it to be. To me, that is a double standard.

I believe that the independence of judges in the discharge of their duties comes from within themselves. If we are firm, honest and clean in the discharge of our duties, no one would dare to approach us to influence or to buy us out, or once they try but unsuccessful, they would not try again. But, if we ourselves go about lobbying for appointment as judges or to be promoted, then, we are the ones who have compromised our independence. To me, a person who lobbies to be appointed a judge has compromised the independence of the Judiciary even before he is appointed. A judge who lobbies to be promoted has compromised the independence of the Judiciary even before he is promoted. Similarly, if we ourselves, directly or indirectly, give the impression that we can be approached, then, actually, we are inviting it. What more if we ourselves are the ones who look for it. The question is: is our character strong enough?

To those who have or intend to pervert the course of justice whether through influence, pressure or money, no matter how big, influential or rich they are, I say that they are the enemies of justice.

While justice is our aim, we should remember that the justice that we administer is justice according to law, not justice according to our own whims and fancies. And the law that we apply is the law of Malaysia.

As has often been said, the administration of justice requires the support of the legal profession, including members of the Bar and officers of the Attorney General's Chambers, the Ministries and Government Departments. I appeal for their co-operation. If there is any issue that need be discussed for the improvement of the administration of justice, I am always prepared to meet them. Please come with honesty and leave with a smile. Besides, we also have custom and etiquette.

One of the problems faced by the courts all the time and everywhere is the problem of delay in the disposal of cases. There are many factors that cause it. While I admit that it is not an easy task to overcome the problem, we should try to reduce it. Immediate attention should be given to the negligence factor, for example, negligence in the writing of judgments, negligence in the typing of the notes of evidence, negligence in the preparation of the records of appeals in criminal cases, negligence in informing the judges of the existence of appeals against their decisions which require them to write their judgments and negligence in forwarding the notices of appeals by the hearing court to the appellate court. Some of the actions are simple actions performed by junior officers. But, negligence in such simple actions has very serious implications. Another matter that should be given priority is how to overcome the problem caused by interlocutory appeals that multiply the number of appeals and costs to litigants and delay the final disposal of cases. Indeed, of late we are not even sure when "final" is really final.

Ladies and gentlemen,

I am aware that even if with the grace of God Al-Mighty I were to live long enough, my term of office as Chief Justice will be a very brief one. But, even if, by the will of God Al-Mighty I were to occupy the office for only one day, during that one day, I am determined to do what I honestly believe to be right, as best I can. Whether my best is good enough is for the public to Judge.

Ladies and gentlemen,

Believe me that, eventually, honesty supersedes all. And, believe me that, eventually, truth always prevails.

Lastly, if I were asked to choose a slogan, this is my choice: "BUAT KERJA" (Do your work).

Thank you.