

OPENING OF THE LEGAL YEAR 2025
ADDRESS BY GURVIR SINGH SANDHU
PRESIDENT OF THE ADVOCATES ASSOCIATION OF SARAWAK
10th JANUARY 2025 @ KUCHING

Salutations:

1. The Right Honourable Tun Tengku Maimun Binti Tuan Mat, Chief Justice of Malaysia;
2. The Right Honourable Tan Sri Datuk Amar Abang Iskandar Bin Abang Hashim, President of the Court of Appeal Malaysia;
3. The Right Honourable Tan Sri Abdul Rahman bin Sebli, the Chief Judge of Sabah and Sarawak;
4. The Right Honourable Dato' Sri Hasnah binti Dato' Mohammed Hashim, Chief Judge of Malaya;
5. The Honourable Dato' Mohd Dusuki bin Mokhtar, Attorney General of Malaysia;
6. The Honourable Judges of the Federal Court;
7. The Right Honourable Datu Haji Awang Suhaili bin Ledi, Chief Judge of the Syarie Court, Sarawak;
8. The Honourable Judges of the Court of Appeal;
9. The Honourable members of the Judicial Appointment Commission;

10. The Honourable Judges and Judicial Commissioners of the High Court of Sabah and Sarawak and High Court of Malaya;
11. Yang Berhormat Datuk Sharifah Hasidah Saeed Aman Ghazali, Deputy Minister in the Premier's Department (Law, MA63 and State-Federal Relations);
12. Retired judges;
13. The Honourable Datuk Zamri Bin Bakar, Chief Registrar of the Federal Court of Malaysia;
14. The Honourable Dato Sri Saferi Bin Ali, State Attorney General of Sarawak;
15. The Honourable Datuk Brenndon Keith Soh, State Attorney General of Sabah;
16. The Honourable Mr Mohamed Nazim Bin Maduarin, President of the Sabah Law Society;
17. The Honourable Puan Murshidah binti Mustafa, representing the President of the Malaysian Bar;
18. Presidents and Delegates from foreign Bar Associations/Societies;
19. Registrars from the Chief Registrar's Office;
20. Heads and Representatives of the Federal and State Departments and Agencies;

21. Judicial and Legal Officers;
22. Fellow Members of the Bar;
23. Distinguished Guests; Ladies and Gentlemen.

Introduction

Good morning, and a warm welcome to all of you - to this beautiful capital city of Sarawak.

It is both an honor and a privilege for me to be up-standing before you today as the President of the Advocates Association of Sarawak to deliver this address. I would like to firstly extend my heartfelt greetings to my esteemed colleagues Mr. Mohd Ezri –and Mr Mohamed Nazim, for their presence in Sarawak today, and especially to our esteemed foreign guests from Singapore, Taiwan, Hongkong and Brunei. Your presence here signifies the strong bonds of friendship and commitment to cooperation that we, as legal representatives share from across the borders.

Sarawak, as many of you have come to find, is a land rich in resources, vibrant culture and diverse people. These are also the colours shared by the legal fraternity in Sarawak, and despite such differences, we are united by our shared commitment to upholding the rule of law and ensuring that justice prevails in every corner of our society. It is in this spirit of unity and collaboration that we come together with the Judiciary, the legal officers and all relevant stakeholders to observe the Opening of the Legal Year of Sabah & Sarawak 2025.

As we look around the world, we recognize the challenges that many legal systems face in an increasingly interconnected and globalized world. The exchange of ideas, practices, and experiences is crucial to our continued development as legal professionals. This is why gatherings like this are - so important. They allow us to learn from one another, strengthen our ties, and collectively work towards advancing justice, human rights, and the rule of law.

Here in Sarawak, we understand that our legal community is not isolated but rather an integral part of the global legal landscape. This has been the direction taken by the Association over the last few years to reach out and connect with the world in order to widen our horizons so that we may absorb legal knowledge, know-how and skill to advance ourselves as advocates. This is an activity of utmost importance in view of the exclusive right of audience for Sarawak Advocates to practice law in Sarawak in tandem with Section 8 of the Advocates Ordinance (Sarawak Cap. 110) and Article 161B of the Federal Constitution – a privilege that we zealously guard.

As we come together at this significant occasion, it is essential that we reflect on a fundamental principle that binds us as a legal community, both locally and internationally—the Rule of Law.-

My Ladies and My Lords

The Rule of Law in Sarawak

Our legal framework, which incorporates both national and state laws, provides a foundation for governance.

The Rule of Law, at its core, ensures that everyone, regardless of their status or position, is subject to the law. It provides us with the crucial assurance that laws will be applied fairly, consistently, and impartially.

In Sarawak, we are reminded that the Rule of Law is not only enshrined in our national constitution but is also reflected in our local customs, traditions, and practices. Our legal system is built on a strong foundation of respect for cultural diversity, recognizing that different communities have their own customary laws that coexist alongside the formal legal system. This harmonious balance allows us to maintain both legal order and respect for the cultural fabric of our Sarawakian people.

In a rapidly changing world, the importance of upholding the Rule of Law has never been more critical. Globalization, technological advancements, and complex challenges such as environmental protection, economic disparities, and human rights issues require us to remain vigilant in our commitment to justice.

Here in Sarawak, we are not immune to these challenges especially in light of the high geared development in new economies the State Government had moved Sarawak into. We are constantly navigating the complexities of managing natural resources, ensuring environmental sustainability, and addressing socio-economic inequalities, all while safeguarding the rights and freedoms of every individual. As advocates, we also find ourselves steering complex matters involving multinational organisations that have called Sarawak home.

It is crucial that the Rule of Law is not merely a concept spoken of in legal circles - but a living, breathing principle that permeates all levels of society. This is where the legal community plays a central role. As legal professionals, we must be committed to ensuring access to justice, promoting legal literacy, and ensuring that the legal system is accessible to all, regardless of their background or socio-economic standing. To this end, I am pleased to record that our members initiatives to provide access to justice has been compelling in 2024 wherein in total more than 1500 criminal cases were attended to by our members throughout Sarawak under the Legal Aid Department (YBGK) initiatives. I also record that all persons in Sarawak accused of capital punishment cases have been represented by an advocate, including all cases heard before the Federal Court sitting in exercise of its revisionary powers made pursuant to the Revision of Sentence of Death and Imprisonment for Natural Life (Temporary Jurisdiction of The Federal Court) Act 2023 (“Act 847”). I believe that the data shared by the Judiciary upon the address of YAA Tan Sri CJSS would show that the cases filed in Sarawak are moving along positively with limited backlog.

My Ladies and My Lords

Ombudsman

On the part of the State Government advancing Rule of Law, I report that the Ombudsman institution in Sarawak made under the Premier’s Department (Unit Integriti Dan Ombudsman) plays a crucial role in ensuring accountability, transparency, and justice within our society in the realm of public authorities. In Sarawak, the Ombudsman serves as a crucial bridge between the government and the public. When a citizen feels that their rights

have been violated or that they have been treated unfairly by public authorities, the Ombudsman provides a means to seek redress. This is especially important in a diverse society such as ours, where the interests of different communities coming from urban and rural areas must be carefully balanced and protected. The Ombudsman has an important role in investigating complaints and recommending remedies to help restore confidence by shedding light on potential wrongdoings or inefficiencies within public administration.

While Sarawak has made significant strides in strengthening its governance frameworks, we must continue to focus on the enhancement and empowerment of the Ombudsman's office - ensuring that the Ombudsman's investigations are effective, independent, and free from political or institutional influence. Moreover, public awareness of the Ombudsman's role must be promoted, so that more people are aware that an avenue is available for seeking justice and accountability when they are wronged by public authorities.

My Ladies and My Lords

Education

A strong legal framework ensures that laws are applied equally to all, protecting individual rights and promoting justice. Education, in turn, plays a vital role in fostering respect for the rule of law by equipping individuals with the knowledge and understanding of their legal rights and responsibilities. By promoting both legal literacy and a culture of respect for the law, education strengthens the foundations of good governance and a functioning democracy. At this juncture, I report that it was decided recently during a

meeting with the Ministry of Higher Education, that the moratorium for setting up a law school will be lifted – this gives the invaluable opportunity to one education institution to set up a law school here. Such news is definitely welcomed in Sarawak.

In such regards I also applaud the significant development in the landscape of higher education in Sarawak—the abolition of the quota system for admission to our state universities. At this transformative moment in our education system, we will usher in a new era that is guided by meritocracy and fairness for all, regardless of race or religion. This significant shift will ensure that university admissions are now determined by academic performance, aptitude, and the potential a student demonstrates.

By abolishing the quota system in Sarawak, we are sending a clear message that we value the contributions of all communities, but that merit—rather than identity or background—should be the determining factor in accessing opportunities. Every student, regardless of their ethnicity, religion, or region, should feel empowered to pursue their dreams and aspirations based on their academic capabilities to be a contributing member of the society.

My Ladies and My Lords

ADR in Sarawak

The rule of law and alternative dispute resolution (ADR) are closely intertwined, as both aim to ensure fairness, justice, and efficient conflict resolution. ADR offers an effective mechanism to resolve conflicts outside traditional court proceedings. ADR helps reduce the burden on courts, promotes amicable resolutions, and often results in outcomes that are more

tailored to the needs of the parties involved – in fact, this is the only avenue where a win-win outcome can be achieved. By supporting ADR, the rule of law is reinforced, as it provides citizens with alternative means of accessing justice.

In such regards, it is our hope that the State Government's move to set up an ADR center in Sarawak be expedited in view of the proposed amendments to practice which will mandate all cases to be set for mediation before the same proceeds for trial/hearing – this of course is a proposal the Association fully supports.

My Ladies and My Lords

Law Commission in Sarawak

On to a matter of utmost importance to the future of Sarawak's legal ecosystem—the establishment of a Law Commission in our state. This is a step that promises to enhance the development of our laws, to strengthen our legal framework, and ensure that justice is served in an efficient, transparent, and equitable manner for all citizens of Sarawak.

A Law Commission is an independent body tasked with reviewing, developing, and reforming the legal system of a jurisdiction. Its role is critical in ensuring that laws remain relevant, efficient, and responsive to the evolving needs of society.

In essence, the Law Commission serves as an advisory body that works to improve the quality of legislation, ensuring that it reflects the values of the community and addresses contemporary issues. The establishment of a Law

Commission in Sarawak will provide us with the tools and framework to undertake such reviews and reforms in a structured and systematic manner.

Sarawak, as one of the largest states in Malaysia, faces distinct challenges when it comes to legal development. While we operate within the framework of the Malaysian legal system, Sarawak also has its own specific set of legal needs and considerations—whether they relate to land rights, indigenous affairs, natural resources, or local governance. Many of these issues require tailored solutions that reflect the realities of our state. Many of our laws, especially those related to land and resource management, have their origins in colonial times, or were drafted at a time when the socio-political landscape was vastly different. In fact, we are still relying on UK statutes in Sarawak for certain instances. As our society evolves, it is crucial that our laws evolve with it. The Law Commission would be tasked with conducting regular reviews of outdated laws, obsolete laws, recommending reforms where necessary, and providing advice on new areas of law that may be needed in a modern context.

The establishment of a Law Commission would allow Sarawak to have an independent, professional body which is made up of relevant stakeholders dedicated to addressing these challenges. It would ensure that Sarawak's laws remain aligned with the needs of our people, particularly with respect to our indigenous communities, cultural heritage, and unique geographical concerns, including the directions being taken by the State Government on ESG and AI among others.

The establishment of a Law Commission is not just a matter of administrative convenience—it is a fundamental step toward ensuring that our legal system remains dynamic, just, and responsive to the evolving needs of society.

I call upon all legal professionals and the government to support this initiative, as it represents a collective effort to build a legal framework that reflects the values and aspirations of our people. Together, we can lay the foundations for a more just, equitable, and prosperous Sarawak, guided by laws that are relevant, fair, and forward-thinking.

My Ladies and My Lords

Malaysia Agreement 1963

Due to time constraints I am unable to address the ceremony today on this matter. Nonetheless, I do wish to highlight our hopes that urgent steps be taken to make the necessary amendments to Article 122AB of the Federal Constitution to restore the powers of the Head of State (TYT) of Sarawak to appoint Judicial Commissioners. This is a significant constitutional reform necessary to address the position reflected under Section 16(3) of the Malaysia Act 1963. I am informed that my learned friend the State Attorney General of Sarawak – Yang Arif Dato Sri Saferi Bin Ali will address the ceremony on other matters concerning MA63 in his address, and thus I shall leave it to him to elaborate further.

My Ladies and My Lords,

The Association records its appreciation to Mr Mohd Ezri for delivering the address on behalf of the Association during the Opening of Legal Year 2025 ceremony held at the Putrajaya.

My Ladies and My Lords

On a final note, I also have the honor today to bid farewell to the top three echelons of the Judiciary lead by YAA Tun whom have shaped the very foundation of our judicial system, whose leadership, wisdom, and unwavering commitment to justice have left an indelible mark on our nation.

As we reflect on their long extraordinary service to the Nation, we are reminded of the integrity they embodied, the impartiality they upheld, and the countless contributions they made to ensuring the rule of law remained the cornerstone of our democracy. Their decisions not only shaped the legal landscape but also guided our society toward fairness and equality.

Through their years of service, they have upheld the values of justice, dignity, and the protection of rights, always ensuring that the law serves the people and not the other way around. They have exemplified what it means to be true servants of the law—dispassionate and resolute.

As they step away from their roles at the pinnacle of the judiciary, we acknowledge the monumental impact they have had, not just within the courts, but on the very fabric of our nation. Their leadership has inspired countless individuals within the legal community and beyond, and their legacy will continue to influence and guide us for years to come.

We thank them for their immense dedication and service. While their tenure may be ending, their contributions will forever be etched in the chronicles of our judiciary's history. We wish them all the best in their future endeavors, and may they continue to inspire as they move forward in their journeys.

Ler there be no doubt that you YAA Tun and your Esteemed colleagues have laboured through your every fiber of your beings to validate your trust in the society in your ability to be a wise and fair judge on every issue that came before the court.

On behalf of the entire legal community Sarawak, thank you for your devoted service to Malaysia, and I must say, you are leaving your respective positions with exceptionally large boots to fill.

Conclusion

The law is not static, and it is our responsibility to ensure that it remains relevant and capable of safeguarding the rights of future generations. Concurrently, it is also our obligation as advocates to be equipped with the latest information and skills to advance such laws.

As legal professionals, we have a duty to lead by example, to uphold the values of justice, fairness, and equality, and to remain steadfast in our commitment to the Rule of Law.

My Ladies and My Lords,

On behalf of the Advocates Association of Sarawak, we extend to Your Ladyships and Your Lordships, and all present here today warm wishes and

prayers for good health, continuing wisdom, strength and fortitude for the year ahead.

My Ladies and My Lords, I am much obliged.

Gurvir Singh Sandhu

President of the Advocates Association of Sarawak

10th January 2025