



**SPEECH BY
THE RIGHT HONOURABLE TUN ARIFIN BIN ZAKARIA
CHIEF JUSTICE OF MALAYSIA
AT THE
CEREMONIAL OPENING OF THE LEGAL YEAR 2016**

A. INTRODUCTION

BISMILLAHIRRAHMANIRRAHIM

[1] I am pleased to welcome all our distinguished guests here this morning on behalf of the Malaysian judiciary. I thank all of you for having made the effort to be present despite your busy schedules. We are indeed honoured by your presence.

SALUTATIONS

1. YABhg. Tun Dato' Seri Mohamed Dzaidin bin Haji Abdullah
Former Chief Justice of Malaysia
2. YABhg. Tun Dato' Seri Zaki bin Tun Azmi
Former Chief Justice of Malaysia
3. The Honourable Mr. Nurak Marpraneet
President, Constitutional Court of Thailand, and
Mrs. Sumpun Marpraneet
4. YB Senator Tan Sri Abu Zahar Ujang
President of the Senate

5. YB Puan Hajah Nancy binti Haji Shukri
Minister in the Prime Minister's Department
6. YBhg. Tan Sri Dr. Ali bin Hamsa
Chief Secretary to the Government of Malaysia
7. YBhg. Tan Sri Dato' Seri Haji Mohamed Apandi bin
Haji Ali
Attorney General of Malaysia
8. His Excellencies Ambassadors and High
Commissioners
9. The Right Honourable Tan Sri Dato' Sri Md Raus Sharif
President of Court of Appeal, and
YBhg. Puan Sri
10. The Right Honourable Tan Sri Dato' Seri Zulkefli bin
Ahmad Makinudin Chief Judge of Malaya, and
YBhg. Puan Sri
11. The Right Honourable Tan Sri Datuk Seri Panglima
Richard Malanjum Chief Judge of Sabah and Sarawak,
and YBhg. Puan Sri
12. Honourable members of Judicial Appointments
Commission
13. Honourable judges of the Federal Court, Court of
Appeal, High Court and Judicial Commissioners,
14. Chief Registrar of the Federal Court and Registrars of
the Court of Appeal, High Courts and Subordinate
Courts,
15. President of Malaysian Bar, President of Sabah Law
Association and President of Advocates' Association of
Sarawak,

16. Presidents /Representatives from;
- i) The Law Society of Australia, Brunei, England and Wales, Germany, Hong Kong, Myanmar, Taiwan, Singapore, South Africa,
 - ii) LAWASIA, Inter-Pacific Bar Association (IPBA), IBA Bar Issues Commission, Union Internationale Des Advocates (UIA),
17. Secretary-Generals, Deputy Secretary-Generals of the Ministries and Heads of Governments' Agencies, Departments and Commissions, Deans of law schools and academics, judicial and legal officers, members of the Bar, members of media, ladies and gentlemen.

ASSALAMUALAIKUM AND A VERY GOOD MORNING.

[2] I wish to make special mention of our special guests, the Deputy Chief Justices, Vice Chief Justices and the representatives of the ASEAN Judiciaries, who have taken the trouble to be with us for this morning's ceremony.

[3] I need to make special mention of the attendance of the speaker of Dewan Negara, as representing the Legislature Branch and the Minister in the PM's Department representing the Executive Branch.

[4] 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.

[5] This is the fifth occasion on which I have enjoyed the privilege of addressing this event as Chief Justice. As you all know, the Opening of the Legal Year was revived in 2009 during the tenure of Tun Zaki Tun Azmi and it has since become an important event in our legal calendar. It is not simply a ceremonial occasion, but provides an opportunity for the legal community to take stock, and reflect on matters critical to the administration of justice within our legal system and the rule of law.

B. THE RULE OF LAW

Ladies and gentlemen,

[6] As is the case in most years, 2015 proved to be a challenging year for the legal community. A plethora of cases were adjudicated upon by our courts, which attracted comment and controversy. There is no doubt that the coming year will bring its own unique challenges to be faced by our legal community. In meeting these continuous challenges, it is of paramount importance that, regardless of external opinion, we continue to enforce the law without fear or favour. That is the cornerstone of the rule of law, which is the foundation of our society. It is the foremost insignia of good governance.

- [7] A uniform or cohesive definition of the rule of law has proved elusive, notwithstanding attempts by many great legal minds to grapple with this concept. My preferred definition/explanation of the concept is that of the late HRH Sultan Azlan Shah:

“The Rule of Law means literally what it says: the rule of the law. Taken in its broadest sense this means that people should obey the law and be ruled by it. But in political and legal theory it has come to be read in a narrow sense, that the government shall be ruled by the law and be subject to it.

The ideal of the Rule of Law in this sense is often expressed by the phrase ‘government by law and not by men.’

- [8] Ours is a nation and society which is unique in terms of its multi-racial constituency and diversity. We are now a nation of thirty-one million people, all of whom seek to attain a reasonable standard of living with dignity for themselves and their families. In the course of doing so, the very differing interests of the population are likely to clash and priorities to differ. It is here that the rule of law steps in to provide guidance and cohesiveness. The rule of law ensures that these varying interests are balanced, such that there is respect for fundamental rights as well as the rights of the community.

[9] How then is this achieved? To answer this question I shall attempt to encapsulate the core values that comprise the rule of law in Malaysia.

[10] Firstly, the cognizance and acceptance of the absolute supremacy or predominance of our Federal Constitution, particularly well-articulated in Article 4(1), namely that the Federal Constitution reigns supreme over Parliament, the executive and the judiciary¹. This ensures that we are governed by laws and not arbitrarily by the whims and fancies of the ruling government. It comprises a cornerstone of democracy;

[11] Secondly, the concept that all are equal before the law. Or put another way that every man is subject to the ordinary law of the country. No one can claim to be above the law or entitled to preferential treatment in our courts.

[12] Thirdly the independence of the judiciary- namely not simply that the institution of the judiciary subsists in a society, but that it operates as an institution to enforce fearlessly the law, without interference or independently of extraneous influences, albeit the executive, the public or any section of the public or for that matter any particular individual who seems to be advocating his or her own perception of human right. This constitutional role of the judges is set out in the

¹ This Constitution is the supreme law of the Federation and any law passed after Merdeka Day which is inconsistent with this Constitution shall, to the extent of the inconsistency, be void

provisions of the Federal Constitution dealing with judicial function.

[13] Other important ingredients to the rule of law include:

Fourthly, that the law is clear and accessible and applied predictably. This envisages that a citizen should be able to comprehend the nature of his or her obligations, as well as his individual rights and entitlements. This limb encompasses the twin pillars of natural justice and envisages that there should be due process and the presumption of innocence.

[14] Fifthly, that there is access to justice for the public. This involves ensuring that legal costs are not prohibitive, the legal process is simplified or abridged, and that cases are disposed of without undue delay.

[15] It also encapsulates the concepts of moderation and proportionality in the construction and enforcement of our laws.

[16] These key features comprise the utopian ideal of the rule of law in Malaysia and would appear to be straightforward enough. However, the practical reality is that constant vigilance, particularly on the part of the judiciary, is required to uphold the rule of law.

[17] There are several aspects about the rule of law and its application in Malaysia that require elaboration.

[18] The rule of law takes its origins from the theory expounded by the nineteenth century British jurist, Dicey, in the context of quintessential England at that time. Its application even in the United Kingdom differs now when compared to the ideal prescribed in the nineteenth century. What more, upon importation through the legal system, to the colonies of Britain in the nineteenth and twentieth centuries.

[19] The law was expected to accommodate and meet the needs of its indigenous population in this developing nation, rather than meet standards prescribed by the First World countries, which enjoy a different climate and degree of economic, political and social development and cultural background, not to mention, urbanization and progress. This is a reality particularly when applied to the rule of law. It has been noted that the application of Eurocentric jurisprudential concepts to places with different legal traditions must be undertaken with caution, and the rule of law must always be placed in its historical and political context². In our multi-racial, multi-religious nation, this is particularly true. The application of Western norms which are not always in accord with the values of Malaysian society do not allow for a direct comparison of standards emanating from the West.

[20] By contrast Malaysia with its multi-cultural population, and diversity of legal and cultural traditions and economic and political structures, has evolved over centuries a value system, which differs considerably from the traditions of the

² See Penelope Nicholson, *Borrowing Court Systems: The Experience of Socialist Vietnam*

West. As stated by Disraeli in his description of a nation:

‘ A nation is a work of art and a work of time. A nation is gradually created by a variety of influences – the influence of original organization, of climate, soil, religion, laws, customs, manners, extraordinary accidents an incident in their history, and the individual character of their illustrious citizens. These influences create the nation – these form the national mind.’

[21] The national mind of a Malaysian necessarily therefore differs from that of his counterparts elsewhere. The existence of this gulf needs acknowledgement, in order that the rule of law is adapted to meet our own circumstances, and not blindly applied as if we were still in nineteenth century England. The rule of law as then expounded in nineteenth century Britain, extols the rights of association and expression, of assembly and peaceful demonstration, without limitation, as it were. Such unabridged rights are not necessarily feasible in a diverse, multi-racial and multi-religious country such as ours. These rights are, of course, of fundamental importance even today, but they do not subsist without limitation. The need for such limitation in our society is expressly provided for in our Federal Constitution. Ultimately the rule of law must deliver good governance, which meets the needs of the individual and civil society, as well as actively improves and protects the lives of Malaysians.

[22] The rule of law is today facing numerous challenges. Over

the course of time we saw the rise of sporadic unlawful activities. Many of these activities saw their proponents put forward civil disobedience as justifiable means for conduct which was in breach of the law. While the majority of the nation supports and condones the importance of freedom of speech and assembly, it is of equal importance that these values are propagated within the ambit of the law. This is fundamental to preserve the rule of law.

[23] Any constitutional development in these freedoms must be consistent with the provisions of our Federal Constitution. So long as laws are promulgated in accordance with, or intra vires the Federal Constitution they should be adhered to. If indeed these laws encroach upon the fundamental rights set out in the Constitution, then the requisite steps should be taken to facilitate the adjudication of these laws by the judiciary. The members of the judiciary are bound, by constitutional oath, to ensure that these laws are effectively measured against the anchor of our Federal Constitution.

[24] Resorting to unlawful means for the purposes of pursuing fundamental freedoms of expression and assembly without limitation is therefore unjustifiable, especially when the use of such unlawful means prejudices other people's rights and disrupts social order. It should be made clear that I am by no means opposing the right of individual citizens to dispute government policies, acts and omissions when they feel that genuine wrongs are being perpetrated. However this does not validate the use of unlawful means to correct perceived wrongs. This would in effect encourage the populace to

disregard the law as and when they see fit, which is converse to the letter and spirit of the rule of law.

[25] Any breakdown or disintegration of the rule of law commences with a disregard for, or basic disobedience to the law governing the basic fundamentals of our lives. If the public, for example, refuse to adhere strictly to traffic laws and ignore stop signs and traffic signals the streets will become a chaotic and dangerous place. The rule of law functions because most of us agree that it is important to observe the law, even if a police officer is not present to enforce it. As aptly observed by Professor Goodhart:

“Fear may produce obedience to a command, as in the case of a bandit but it cannot bring about a sense of obligation. If we do not understand this distinction then we cannot differentiate between rule by force and rule by law”³

[26] The prevailing lack of respect for adherence to the laws of the nation is well-illustrated by a simple example. In the past, recipients of traffic and other departmental summonses would routinely queue up at the magistrate’s courts in the morning. This was the scene when I first started my career as a Magistrate at Bukit Mahkamah in Kuala Lumpur. They would number in the hundreds, seeking to pay up for a variety of road traffic offenses including driving without a licence. Today, by contrast, the scenario is completely different. Hardly anyone appears in the magistrate’s court for

³ Goodhart, A.L. English Law and Moral Law, 1953 pg. 27

traffic offences. Traffic summonses remain unpaid because very few people own up or pay up on their summonses until the police threaten to issue warrants of arrest forcing them to appear in court. This reflects the complete lack of concern and respect the public has for the law relating to traffic offences.

[27] The prevailing situation is best illustrated by statistics. For instance, between January and October 2015 there were a total of 72,677 registered traffic summonses and a balance of 539,126 summonses for the previous months. A total of 97,439 summonses were disposed of and a balance of 515,413 carried forward. As many as 831,742 summonses were pending the issuance of warrants of arrest. These statistics mirror the lackadaisical attitude of the public to traffic offences. For the rule of law to thrive it is essential that society adheres to the laws of a nation. This creeping disrespect for the laws of the nation require urgent attention. If not prevented, this form of negative culture will continue to spread into the fibre of our society. This lack of respect for the law signals the beginnings of the disintegration of the rule of law.

[28] How then is this slow erosion in the rule of law to be halted? Efficient and fearless enforcement in accordance with due process must ensue, when such contraventions of the law occur. In other words prosecutions should be commenced where there is a contravention of laws, major or minor,

provided there is sufficient admissible evidence. In other words, the stipulated punishment or penalties ought to be enforced (after due process) in order to ensure obedience to the laws. It is in the public interest that such prosecutions be brought. Such unbiased enforcement against all, which allows no consideration to be taken of a person's social status, political affiliations or political views, would greatly strengthen the rule of law in Malaysia. We in the judiciary should be prepared to mete out appropriate punishments to those brought up to court to serve as deterrent to would be offenders.

[29] It is therefore important that the people of Malaysia embrace once more the concept of the rule of law and cease to utilize or condone unlawful conduct and activities to express their dissatisfaction. Ultimately it is the nation itself that suffers both domestically and internationally when such unlawful activities are perpetuated.

Enforcement

Ladies and gentlemen,

[30] On this auspicious occasion permit me to make some observations on the need for more stringent/comprehensive enforcement of the laws. Malaysia as a country has sufficient number of laws. The only issue is one of enforcement. Take for instance the legislation relating to environment alone. We have no less than 38 primary and 17 subsidiary legislation. But our environment and our flora and fauna continue to be under threat due to lack or inadequate enforcement.

Similarly the penalty for offences under those laws are pretty severe but that would not serve as a deterrent if the perpetrators are free to break the law without being detected or caught. This observation I must say applies equally for traffic offences. For instance, take Putrajaya, our administrative capital, we see written warning at the road junctions stating that a CCTV is in operation and yet we see road users simply ignore traffic lights, and I presume with impunity. It is high time that a more stringent enforcement regime be put in place for all our laws so that the public will take the law more seriously. This is to instill in the public respect for the law, a pre-requisite for the rule of law to prevail in this country

The Judiciary

[31] As I stated at the outset, 2015 saw the courts handing down a variety of decisions, some of which attracted considerable controversy. Decisions of the courts are not always to everyone's liking, whether they be private individuals, political groups or civil society or the government – but it is not the role of the courts to make popular decisions. The function of the courts is to adjudicate on disputes according to the law and its spirit.⁴

[32] It is equally important to stress that in 'public interest' cases, the rule of law in the form of due process was strictly adhered to. Most of these cases were heard over a number

⁴ Taken from the speech of the Chief Justice of Hong Kong, The Right Honourable Geoffrey Ma

of days. All parties were accorded a full opportunity to present comprehensive submissions. Access to justice was ensured as all parties were represented by counsel of their choice and these cases were heard in accordance with legal procedure in the open court. Reasoned decisions were handed down within a reasonable time. In short there is a genuine adherence to the rule of law.

[33] There was considerable criticism of some of the court decisions, particularly from civil society, as violating individual freedoms and curtailing freedom of speech and association. In making these criticisms, the standards applied by way of comparison are those of mature, Western orientated democracies. With respect, the application of Western norms which are not always in accord with the values and culture of Malaysian society do not allow for a direct comparison of standards emanating from the West.

[34] The Malaysian value system or philosophy is encapsulated in our Rukun Negara, more particularly the pledge, which sets out the core principles by which our citizens abide, namely "Belief in God, Loyalty to King and Country, Upholding the Constitution, Rule of Law and Good Behaviour and Morality". In upholding these values, there is often a fundamental tension between protecting the interests of the community at large as against the constitutional protection of individual rights. In maintaining these values and the philosophy, which is all important in a multi-racial country, certainly peace and harmony and the stability of the nation

stand paramount. Matters running counter to these objectives are restrained.

[35] A continuing struggle for the nation is the fostering of a society that is stable, safe, tolerant and which respects diversity. Such an inclusive society, which effectively provides a society for all, is one in which every individual, each with rights and responsibilities, has a role to play. And integral to the role/responsibility of each individual as well as the collective whole, is the need to adhere to the rule of law. There can be no compromise on this issue. The strength of our institutions and ultimately the nation depend upon our observance of the rule of law.

[36] With that salutary reminder on the crucial importance of the rule of law, I now move on to consider the performance of the courts over the past year.

C. PERFORMANCE OF THE COURTS

(i) Federal Court

Ladies and gentlemen,

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

Leave Applications

[38] Leave applications form the bulk of cases in the Federal Court. In 2015 a total of 605 605 leave applications were registered. The court disposed of a total of 667 leave applications out of 1246 pending in 2015. The balance of leave applications as at 31st December 2015 stood 579. For the record, a total of 158 leave applications were allowed in 2015 that is 23.6 % of total applications that were disposed of.

Civil Appeals

[39] As for civil appeals, 158 cases were registered in 2015. The Court succeeded in disposing a total of 136 appeals out of 342 pending, leaving a balance of 206. The increase in number is expected as it is reflective of the increase in the disposal of application for leave to appeal. For 2015, a total of 158 leave to appeals were allowed, compared to 89 cases last year, an increase of 77% in number.

Criminal Appeals

[40] In 2015, a total of 279 criminal appeals (excluding habeas corpus) were registered. Special focus and priority was given to criminal appeal in 2015 with more sittings for criminal appeals compared to 2014. The result shows that a total of 423 appeals were disposed of in 2015 compared to only 213 cases in 2014, an increase of 98.5%. Despite that, as at 31st December 2015, 396 criminal appeals are still pending as compared to 540 cases in the previous year.

Projection 2016

- [41] In 2016, our thrust will be clearing pre 2016 cases by the end of year. This will be done by enhancing the case management system, giving special emphasis to ageing cases, interlocutory appeals, and the use of technology.
- [42] Starting 2016, case management for application for leave to appeal to the Federal Court will be conducted by a single Judge of the Federal Court. This will be done with the objective of having reasonable number of cases fixed for hearing in a day. We are of the view that a judge will be in a better position, instead of the registrar, in giving proper weightage to the cases. This will be done on a weekly basis. With proper weightage, a fair number of cases can be fixed for disposal.
- [43] Parties are expected to prepare "*power point*" presentation in addition to the oral and the written submission. I am optimist that this will make Court proceeding more efficient and effective. A practice direction relating to this will be issued.

(ii) Court of Appeal

Ladies and gentlemen,

- [44] I shall now move on to the Court of Appeal. The Year 2015 saw a further reduction of pending cases in the Court of Appeal from 3209 to 2627 as at 31st December 2015. In 2015, a total of 4,336 appeals were disposed against 3,754 cases registered. The percentage of disposal is 116%.

Achievement 2015

[45] In 2015, around 80-90 % of the appeals from the specialized courts namely the New Commercial Civil Court (NCC), New Civil Court (NCvC), Intellectual Property Court (IP), Muamalat Court (MU), Admiralty Court and Construction Court, continued to be disposed within the time frame of six (6) months. With regard to criminal appeals involving government servant (Code 06A and 06B), the appeals are now disposed within the 9 months timeline. Leave application are also current. Majority of leave applications are being disposed within three (3) months from the date of registration.

Projection 2016

[46] Out of 2627 appeals pending before the Court of Appeal, less than 20% are pre-2015 appeals. Our aim for 2016 is to dispose all appeals within 12 months from date of registration.

(iii) High Court in Malaya

[47] Throughout 2015, the High Court in Malaya has disposed a total of 99,148 civil cases and leaving a balance of 42,762 as at 31st December 2015.

[48] As for criminal cases, the High Court in Malaya has disposed a total of 4,190 criminal cases leaving a balance of 2,911 criminal cases pending as at 31st December 2015. These figures include criminal appeals.

[49] I am happy to note that most of the pre-2013 civil and criminal cases in the High Court in Malaya has been disposed. The Judiciary projects that these cases will be disposed by June 2016.

Enhancement of Case Management for Probate and Administration

[50] I am also happy to report that the manual work process for probate and administration has now been converted into an electronic system. Through the implementation of this system, the work process is shortened from 6 months to a mere 3 days.

[51] In 2015, we also introduced **eJurubahasa** with effect from 9th December to facilitate and expedite the process of application of foreign language interpreters in criminal matters. This is accessible online throughout Malaysia.

PROJECTION – 2016

(a) The development of e-Bidding for Public Auction of

Immovable Property for the High Court in Malaya.

[52] I am pleased to announce that e-Bidding for public auction will be introduced for the High Court in Malaya in 2016. This system will be developed to replace the manual Public Auction process in court and expected to be launched in July 2016. At the moment, the Judiciary is in the midst of collecting input from the various stakeholders such as the Bar, Attorney General's Chambers and respective auctioneers. A preliminary workshop was held in Johor Bahru on 27th – 29th November 2015 with the co-operation of Malaysia Productivity Corporation (MPC) and the Special Task Force to Facilitate Business (PEMUDAH).

[53] With the e-Bidding, the bidding process will be more transparent as it will be opened to more prospective bidders. This will also help to hasten the debt recovery process. And of equal importance, the e-Bidding will eliminate any syndicate which tends to interfere with bidding process which may lead to artificial pricing.

(b) The Centralization of Power Of Attorney documents in the High Court in Malaya.

[54] Another initiative to be taken in 2016 is to establish one stop centre for Power of Attorney documents. The objective of this project is to establish a centre for the depositing of Power of Attorney (registration and revocation) documents from the

High Court throughout Peninsular Malaysia in one centre based in Kuantan Court.

[55] This project will be integrated with the eCourt. With the implementation of this project, all filing and searches for Power of Attorney documents can be done online.

(iv) High Court in Sabah and Sarawak

[56] Now I move to the High Courts in Sabah and Sarawak. The High Court in Sabah and Sarawak disposed a total of 4836 civil cases and leaving a balance of 2205. As for criminal cases, the courts disposed a total of 811 leaving a balance of 338 as at 31st December 2015.

[57] Based on the above statistics, the emphasis for the courts in Sabah and Sarawak is for all the courts to dispose of cases within the timeline stipulated and pre 2014 cases that are still pending to be disposed by June 2016.

(v) Subordinate Court in Peninsular Malaysia

Ladies and gentlemen,

[58] I will now briefly touch on the performance of the subordinate courts in Peninsular Malaysia and Sabah and Sarawak.

[59] The subordinate courts in Malaysia have disposed a huge number of cases, both civil and criminal in 2015. Despite that, the number of cases carried forward is still noticeably high. This is due to the increase in the number of registration. However, I would like to mention that the disposal of the cases was still within the timeline.

D. NEW INITIATIVES AND SPECIALISED COURTS

Ladies and gentlemen,

[60] I will now mention some of the new initiatives and new specialized courts introduced in 2015.

Ladies and gentlemen,

Fast Track for Street Crime Offences

[61] The Judiciary has introduced the fast track proceedings at the subordinate courts for street crime offences which include cases involving robbery, mugging, snatch theft, hit and run accident and cheating on taxi fares. The nature of these crimes, has a direct impact on public safety and foreign tourist. The Chief Judge of Malaya, through the Practice Direction No. 1 of 2015, directed the Subordinate Courts to dispose street crimes within the timeline not

exceeding 3 days 'if the accused pleads guilty' and 2 weeks 'if the accused claims trial'.

[62] For the year 2015, a total of 2426 such cases were disposed by the Sessions Court and a total of 9185 were disposed by the Magistrates' Court in Peninsular Malaysia alone.

Anti-Profiteering, Goods and Services Tax Court

[63] With the coming into force of the Goods and Services Tax Act 2014 which came into force on 1st April 2014, Anti-Profiteering, Goods and Services Tax Court were established throughout Malaysia to handle cases under GST Act. The Anti-Profiteering, Goods and Services Tax Court helps to expedite the disposal of GST related cases.

Environmental Court for civil cases

[64] In my speech at the opening of legal year 2015, I had proposed the setting up of environmental courts for civil cases. I am happy to say that such courts have been established, both in the High Courts and the Subordinate Courts

Militant Court/ SOSMA – IS Court

Ladies and gentlemen,

[65] The issue of terrorism has become a global menace. It has mired the Middle East in violence and this threat of the Islamic State (IS) group, otherwise known as the Islamic State of Iraq and the Levant (ISIL), is aggressively taking charge in parts of Iraq and Syria. They recruit militants from all over the world including young Malaysians and lures them into a misguided sense of 'jihad'. The Prime Minister has called the Judiciary for the setting up of a special court to handle cases related to extremism and IS militancy. Five Judges have been assigned to hear High Court cases involving Islamic State militants and security matters. For the year 2015 only, there have been 110 cases registered under SOSMA and 59 cases were disposed. There is pending 97 such cases. The setting up of dedicated court will expedite the trial process and help to curb the spread of extremism and the threat of militancy in this country.

eCourt Phase 2

Ladies and gentlemen,

[66] The ecourt system comprising the 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.

[67] The current eCourts systems are facing critical challenges as the usage of the system has grown in leaps and bounds since its implementation in 2009. The judiciary is taking step beginning this year to address these challenges through eCourts phase 2 system. The phase 2 system will be equipped with new features that will benefit the stakeholders.

[68] Some of the benefits are:

1. Improved Usability;
2. Operational Efficiency;
3. New Functionality; and
4. New Sites.

[69] Currently only 8 sites enjoy the use of eCourt system. With the implementation of the phase 2, the eCourt project will be extended throughout Peninsular Malaysia. With that, more users will benefit from the new system. The new system will be extended to both the High Courts and the Subordinate Courts.

E. FORUM

Ladies and gentlemen,

[70] Before I conclude, I need to mention that on the initiative of the Chief Registrar's Office, the AGC and the Bar, as in the previous year, a forum was held yesterday in conjunction with OLY 2016. The forum provides an opportunity for us to openly discuss the effect of globalization on the judiciary and the legal fraternity. I hope everyone had benefited from the forum.

Ladies and gentlemen,

F. CONCLUSION

[71] Now I come to the end of my short speech. Permit me now to reiterate some of the salient points.

[72] In this morning's proceedings, I have emphasized at length the importance of the rule of law and the role of the judiciary in upholding the rule of law. I have also emphasized the need to instill among members of the public, respect for the law which is a pre-requisite for the rule of law to prevail in this country. On the issue of human rights, it is important to note that western norms and values are not necessarily in accord with the values and culture of our society and therefore those standards cannot be the ultimate yardstick. In Malaysia, human rights are defined under the Human Rights Commission of Malaysia Act 1999 as fundamental liberties as enshrined under Part 2 of the Federal

Constitution. The Malaysian value system is further underscored by our *Rukun Negara*. Therefore, the standards for measuring our adherence to human rights ought to be measured against these benchmarks.

[73] Suffice to say, that in order to meet the challenges of our plural nation, the core values of the rule of law I exemplified earlier bear repetition, namely:

- (i) Adherence to the Federal Constitution;
- (ii) Recognition that all are equal before the law;
- (iii) Independence of the Judiciary;
- (iv) Ensuring that the law is clear and applied predictably;
- (v) Access to justice for the public; and
- (vi)** Incorporating moderation and proportionality in the construction and enforcement of our laws.

[74] Finally, I wish to record my sincere thanks and appreciation to the Honourable Attorney General of Malaysia and the President of the Malaysian Bar for their speeches and their continuous support.

[75] Saya akhiri ucapan saya dengan dua rangkap pantun:

*Bunga Melor di tepi Tanjung,
Pohonnya rendang dihinggap rama-rama,
Perlembagaan kita sentiasa dijunjung,
Agar keadilan dinikmati bersama.*

*Sekapur sirih, buah bidara,
Masak sebiji lazatnya rasa,
Semoga hidup aman sejahtera,
Dan didoakan jua sihat sentiasa.*

[76] Thank you all for listening.

**TUN ARIFIN BIN ZAKARIA
CHIEF JUSTICE OF MALAYSIA
8 January 2016**