

SPEECH BY: DATO' SERI DR. MAHATHIR BIN MOHAMAD
(PRIME MINISTER)

EVENT: THE OPENING CEREMONY OF THE ASEAN LAW ASSOCIATION GENERAL ASSEMBLY

VENUE: THE DEWAN TUNKU CANSELOR, UNIVERSITY OF MALAYA, KUALA LUMPUR

DATE: 26 OCT 1982

TIME:

Mr. Edgardo Angara, President of the Asean
Law Association;
Hon. Ministers;
Your Excellencies;
My Lords,
Distinguished guests;
Ladies and Gentlemen.

When I was invited to address this Assembly my initial reaction was what have I, as a doctor and a politician, got to say to a distinguished group of lawyers considering that our professions are poles apart. Nevertheless I deem it an honour and a privilege to officiate at this gathering and to share some of my thoughts with you.

2. You are gathered here today to exchange ideas, to debate and suggest how to overcome common legal problems that face the peoples of Asean, problems that may be solved with the help of your experience and expertise. from each other's country - but also to talk to Malaysians from other walks of life and to travel a bit to see our country, to see what we have achieved since independence 25 years ago and to see what we are trying to achieve for ourselves and for our future generations.

4. Touching on your profession, I rather envy the ideas which lawyers have as to how the country should be run and the facility and gay abandon with which they express themselves whenever Government did something they disagreed with.

5. As an example of how quick they are on the uptake I would like to relate to you a story about a doctor who had a lawyer as a patient. The doctor after examining the lawyer said, "I am afraid there is nothing I can do for you. Your disease is hereditary." "Well, in that case", said the lawyer, "send the bill to my father."

6 I also envy the precision with which lawyers use language. For example, in another case, a doctor was treating a lawyer suffering from diabetes and high blood pressure. The doctor advised slimming. He said, "You are overweight. You weigh nearly 250 pounds. Tell me, what was the least you ever weighed." The lawyer-patient answered, "8+ pounds".

Ladies and gentlemen,

7. As this is the first conference of lawyers that I have

ever addressed it is proper for me to say something about my attitude towards the law.

8. First, I believe in the supremacy of the Constitution. The Malaysian Government will faithfully do its duty as guaranteed to minorities, rights guaranteed to the citizen and in some cases to the non-citizen also. The Constitution is not infallible, having been drafted by mere man. Hence the Constitution also provides for its amendment no doubt to make it compatible with changing times. But the conditions for amendments are such that the Constitution cannot be trifled with at will.

9. A written constitution is essential in a federation, especially one with a multiracial and multi-lingual, multi-religious and multi-cultural population. Every one concerned, not only those in Government, must respect and uphold it.

10. Second, I affirm my support for the rule of law. I am no lawyer and have experience of appearing in court only as a medical witness when I was a government doctor; yet I am aware of the importance that the law plays in protecting the life and limb, liberty and property of the citizen. No man is above the law, not even those in power. Those in power are in fact trustees and their duty is to promote the public good, not self-enrichment.

11. Third, I will always respect the independence of the Judiciary. We do not expect the courts to be pro or anti government, only pro the Constitution and pro the law. The favour, but in accordance with the Constitution, in accordance with the law, in accordance with the law of evidence and procedure and justly and fairly. We shall always respect their judgments. But the right to make laws must necessarily be that of the legislature.

12 Fourth, in accordance with our insistence on efficiency, I will see to it that the Judiciary will be given what it really needs by way of manpower and physical facilities (though not what it imagines it needs) to enable it to administer justice expeditiously and efficiently. have been trained to comfort, soothe and to cure - I will always respect the Bar and their independence. I promise that no member of the legal profession would ever be penalised in the course of discharging their duties.

14. Malaysia is a young nation. One of our main concern is development: how to improve the wellbeing of our people. In our efforts to achieve this we find that there are so many things to do and so little time in which to do them. In this task we need order; for order begets stability and stable conditions give the Government the time, effort and money to focus on development. There is no perfect Government. It is a mistake to think that changing a Government will solve problems. We have only to look at the countries that have changed their Government, either by fair means or foul, to appreciate this.

15. In this effort of ours to secure order, the law plays a very important part. In this connection I recall a statement made by our second Prime Minister, the late Tun Abdul Razak, when opening a Conference of the Commonwealth Magistrates' Association in this city in 1975. He said that

in his view:

"..... the law is not something immutable written on tablets of stone, but that the law is to serve man, not that man should serve the law, though of course he should obey it ...the law is a living thing that should be kept under constant review, that should be brought up to date from time to time so that it will always remain suitable for contemporary needs, so that it can be used as an instrument for satisfying the hopes and aspirations of the people. In a developing country like Malaysia the legal profession has a great responsibility towards society..... (They) being the most articulate members of society..... should be the first to spot antiquated laws and to suggest amendments that will increase the citizen's opportunities for economic, social and political advancement, and create and increase his opportunities for prosperity and happiness."

16. In this respect I share Tun Razak's sentiments. That is why I am very pleased that so many judges, lawyers and law teachers from the five Asean countries are gathered here today. Our five countries have had different histories and legal experiences. Malaysia and Singapore have inherited the English Common Law system; the Indonesians, the Dutch, i.e. Continental system; the Philippines, the Spanish with an overlay of the American legal system; and the Thais, the only Asean people without colonial experience, have a different legal system.

17. Each of these systems is designed to regulate in a fair manner the relations of man, the relations between man and the State; and prescribes a just way of resolving disputes among them. But each system follows different paths. Your deliberations should over a period of time produce a synthesis of laws for the benefit of the whole of Asean.

18. I would like to touch on the subject of law as it affects trade relations. Even before independence our five countries had trade relations with one another. After we have all become independent, and especially after the formation of Asean, these trade relations have increased and become stronger.

19. History has seen the shifting of the centre of civilization. At one time China claimed to be the centre of the universe. Events gradually moved it to the Mediterranean. For several centuries now it has been in Europe and latterly it is supposed to be more in the North American Continent. After the Second World War, it can be seen that the Pacific Basin has become more and more important. Asean with a total population of about 250 million people is an important market. Considering also that we are major producers of rubber, tin, oil palm and other important raw materials, the future is indeed bright for us in Asean. We can become great nations, no longer subject to manipulations by far-away countries, if only we could take full advantage of our resources, including our diligent manpower and apply them productively. In all this, lawyers and the law have an important role to play. the laws governing international trade. For this reason I

am happy that at the Manila General Assembly you discussed the laws relating to foreign corporations and transnational corporations; off-shore financing; reciprocal enforcement of judgments and reciprocal service of process; settlement of commercial disputes; and tax systems and laws of member countries; and that here you will be discussing the proper law for Asean corporations and the protection of intellectual property. Intra-Asean trade is very important

for our well-being and the different laws in our five countries should as far as possible be harmonized to promote it.

21. Multiplicity of governments is a challenge to us. Asean has five governments. Malaysia, being a federation, has a Central Government and 13 State Governments. Our avowed aim is to harmonize the different laws that exist on some subjects even within our own country. Progress has been slow because of the need to consult and persuade. For example, it took us seven years to finalize and enact the National Land Code to replace the seven separate land enactments on the peninsular. Even today Sabah and Sarawak each has its own Land Ordinance. I believe that the process of uniformity will ever be achieved.

22. It is too much to expect that your deliberations will produce instant result, but let us hope that in the years to come international trade, not only among Asean countries but also worldwide, can be governed by uniform laws to facilitate business and, more important, to expedite the settlement of disputes among international businessmen.

23. Talking about the settlement of disputes, I see that one of the subjects you will be discussing this week is "Alternative Forum for the Settlement of Disputes for the Common Man" meaning, I am told, that you will be exploring ways and means of settling minor disputes at the village level without too many technicalities in the way.

24. Our Lord President once remarked that the ordinary courts are slow because they have to comply with a written Constitution, with the law, especially the law of evidence and procedure. He also remarked that not every litigant wants early disposal of his case, for many prefer to delay facing the music. This and many other reasons were brought out in your discussions at the General Assembly in Manila. Be that as it may, I hope that the Bench and the Bar can somehow find ways and means of administering the law in a more efficient way.

25. During your deliberations it is only proper that as professionals you focus on legal justice. But I would like to point out that apart from legal justice, there are other kinds of justice which are also desirable that we should achieve, and that is economic and social justice. The former President of the United States, Mr. Carter in a speech to American lawyers said that in the United States there are many judges and many lawyers but not enough justice. He was referring to legal justice. As head of the Government I am acutely aware of the need to provide the broader kind of justice that I mentioned. I hope that members of the legal profession too remember that they have

a wider duty to society, and that during your deliberations and afterwards when you have gone home you will remember the great duty of securing more than legal justice that all of us owe to our fellow citizens.

26. I think I have said enough to this Assembly. I would now like to end in a lighter vein. A long-winded lawyer was arguing a technical case in a court. He had rambled on in such a desultory and soporific way that it became difficult to follow his line of thought, and the judge had just yawned very suggestively. With just a trace of sarcasm, the tiresome lawyer ventured to observe: "I sincerely trust that I am not unduly trespassing on the time of this court". "My friend", replied the Judge, "there is a world of difference between trespassing on time and encroaching upon eternity".
Ladies and gentlemen,

27. I now have much pleasure in declaring open this General Assembly of the Asean Law Association and may God grant you wisdom and guide you in your deliberations and in your search for truth and justice.

Thank you.