The 17th Tan Sri Ahmad Ibrahim Memorial Lecture

The Role Of Dissenting Judgments

In The Malaysian Judicial System

By

The Right Honourable Chief Justice

Of The Federal Court Of Malaysia

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Salutation:

1. Foremost, I would like to thank the organisers for inviting me to deliver this 17th Memorial Lecture. It is indeed an honour and a privilege for me to be here this afternoon.

2. The late Professor Emeritus Tan Sri Datuk Ahmad Mohamed Ibrahim was the first person in Malaysia to have been given the title of 'Professor Emeritus'. Such honour speaks for itself. That is why his name is revered not just in Malaysia but throughout the legal world.

3. The late Professor Emeritus led a distinguished legal career having been the Attorney-General of Singapore, a renowned practitioner, a revered *ulama'*, and the chief architect of at least two of the most prestigious law faculties in Malaysia.

4. It is also a fact that the late Professor Emeritus was instrumental to the amendment of Article 121 of the Federal Constitution with the addition of clause (1A) thus drawing the demarcation of jurisdictions between the civil courts and the syariah courts in Malaysia.[1]

[1] See: *Myriam v Ariff* [1971] 1 MLJ 265; *Latifah v Rosmawati & Anor* [2007] 5 MLJ 101.

5. A lecture in his memory is therefore most befitting. In both public and private, the late Professor Emeritus exemplified a disciplined life. His thirst for knowledge was unending as indicated by his love for reading books.

6. The title of this prestigious 17th lecture is: '**The Role of Dissenting Judgments in the Malaysian Judicial System**'.

7. The key message of this lecture is addressed to all our judges: '*be brave and just do the right thing. When you make a decision consider it as if made on the last day of your working life as a judge*'.

8. And it is worthy to note what Lord Denning wrote in his book '*The Road to Justice'*:[2]

[2] Alfred Denning, *Road to Justice*, (Stevens & Sons Limited, London, 1955), at pages 17-18.

"While speaking of the independence of the judges, there is another factor which must not be overlooked. We have no system of promotion of judges in England. ***Once a man becomes a judge, he has nothing to gain from further promotion and does not seek it****… A man who accepts the office of a judge in England must reckon that he will stay in that position always. He has taken it on as his life work and must stand by it. This is the same whether he is a High Court judge or a County Court judge or a stipendiary magistrate. Each normally stays where is throughout his judicial career.* ***The reason is that we think that the decisions of judge should not be influenced by the hope of promotion****."* [Emphasis added]

9. Now, relevant to the title of this lecture, let me begin by referring to the advice given by the famous American writer Mark Twain. He said this:

> "*Whenever you find yourself on the side of the majority, it is time to pause and reflect.*"

10. Put in another way, he advised that we should always be mindful of the 'herd mentality'. This advice in my view should be kept in mind by judges when they are considering cases before them.

11. In fact, a call on the need for judges to be independent in their decision making came from a high authority. His Royal Highness Duli Yang Maha Mulia Paduka Seri Sultan of Perak Sultan Nazrin Muizzudin Shah in his

royal address on the occasion of a book launch in March last year reportedly said this:[3]

> *"We live in challenging times, in which our institutions sometimes seem to be under threat… More than ever, we need courageous and fair-minded judges to instil confidence that the judicial system remains sacrosanct in guarding the rights, interests and liberty of all…* ***Some judges may hold strong legal and moral convictions, yet fail to articulate their concerns in their judgments. They may remain silent out of deference to the judgments of others; out of concern that their comments may be dismissed; or out of a misplaced belief that what they might***

[3] Razak Ahmad, 'Be Brave Enough to Dissent' *The Star Online*, 19 March 2017, available at <https://www.thestar.com.my/news/nation/2017/03/19/be-brave-enough-to-dissent-speak-up-and-do-the-right-thing-sultan-urges-judiciary/#Ww54Eu23eX9Fj7XJ.99>.

have to say is not that important. Sometimes, the brave dissenting voice is transformed into law*. Judges must also strive relentlessly to dispense justice in accordance with the rule of law, which among others, provide the foundation for economic growth and progress."* [Emphasis added]

12. The foregoing call by His Royal Highness encapsulates the importance of a dissenting judgment. As such it is therefore not surprising that at times appellate judges do differ in their judgments in a same case. There is the majority judgment which is the binding decision of the court while the minority judgment which is generally known as the dissenting judgment takes a different conclusion from that of the majority. The question then is this: what is and the purpose and value of a dissenting judgment? The answers to these questions can be gleaned from the cases and extra-judicial

pronouncements by learned judges referred to hereinafter.

13. Dissenting judgments arise in appellate proceedings where cases are heard before a panel consisting of an odd number of judges. A judge dissents when he disagrees with the decision of the majority of the Court. That judge may then write independent grounds of judgment to support the reasons for his dissent.

14. Dissenting judgments should not be confused with concurring judgments. Concurring judgments happen when all the judges in the panel arrive at a single decision and deliver majority grounds but, there may be a judge or two who delivers separate grounds of judgment forwarding different reasons to support the final decision.[4] There may even be a situation where a panel of judges arrive at the same conclusion but one or

[4] *Jackson and Others v The AG* [2005] UKHL 56.

two judges disagree with the findings or conclusions by the other judges on one or two issues in the case.[5]

15. As for the purpose and value of a dissenting judgment, the late Mr. Justice HR Khanna of the Indian Supreme court in the case of **Additional District Magistrate, Jabalpur vs. S. S. Shukla Etc. *Etc* (1976) AIR 1207** (the habeas corpus case) had this to say in his famous dissenting judgment:[6]

> "*Unanimity obtained without sacrifice of conviction commends the decision to public confidence. Unanimity which is merely formal and which is recorded at the expense of strong conflicting views is not desirable in a court of last resort.*

[5] Public Prosecutor v Kok Wah Kuan [2007] 5 MLJ 174; See also: *Ketua Polis Negara & Ors v. Nurasmira Maulat Jaffar & Ors and Other Appeals* [2018] 1 CLJ 585 (also known as the "Kugan case").

[6] Quoting partly from the extra-judicial view of Justice Charles Evans Hughes, US Supreme Court.

A dissent in a court of last resort is an appeal to the brooding spirit of the law, to the intelligence of a future day when a later decision may possibly correct the error into which the dissenting Judge believes the court have been betrayed.

Judges are not there simply to decide cases, but to decide them as they think they should be decided, and while it may be regrettable that they cannot always agree, it is better that their independence should be maintained and recognise than that unanimity should be secured through its sacrifice."

16. By the way, it is interesting to note that Justice Khanna was in line to be the next Chief Justice of India but never succeeded to that post. This episode took place during the time of Indira Gandhi when she ruled India by decree

under the guise of an emergency. She was obviously unhappy with Justice Khanna's dissent and, in breach of convention, superseded Justice Khanna's appointment as Chief Justice by his junior, Justice H. M. Beg, who decided the habeas corpus case in favour of Mrs Gandhi's administration. This prompted Justice Khanna to resign from the Supreme Court bench in protest.

17. Thus, in a given case while the majority judgment lays down the law the dissenting judgment is a manifestation of judicial independence of a judge. Before delivering his dissenting opinion in the habeas corpus case, Justice Khanna reportedly told his sister: "*I have prepared my judgment, which is going to cost me the Chief Justice-ship of India*."[7] Clearly, Justice Khanna knowingly sacrificed his promotion in doing and saying what was right.

[7] Anil B. Divan, '*Cry Freedom*' *The Indian Express* published on 15 March 2004, available at <http://archive.indianexpress.com/oldStory/42937/>.

18. Dissenting judgments also provide the alternative view if not for the present, then the future of what would possibly be the law when more judges are convinced on the rationale of the dissenting judgment.[8]

19. Former Justice Michael Kirby of the Australian High Court, writing extra-judicially, called upon judges to engage in dissent and not mask disagreements as "uniform interpretation of the law" or "an achievement of coherence and consistency".[9] He was known to have one of the highest dissenting rate, once even up to 34%

[8] In *Justice Puttaswamy and Anor v Union of India and Ors* (delivered in August 2018) (the Aadhaar case –privacy law), the dissent of Justice Khanna was held to be the correct law on habeas corpus and that privacy is a fundamental right under the Indian Constitution.

[9] Michael Kirby, 'Judicial Dissent – Common Law and Civil Law Traditions' [2007] LQR 379.

of the time and in turn himself earned the label 'the Great Dissenter'.[10] Justice Kirby once said extra-judicially:[11]

> "*The right and duty to dissent signals that every Australian judge, whatever his or her values, honestly states the law and its application to the case as conscience dictates.*"

20. However, it is sometimes not easy for judges to dissent. This is because it affects the collegiality between judges.[12] Thus, when a judge does dissent, it reflects his independence from his judicial colleagues. This is reflected in the extra-judicial words of another Australian

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[10] Andrew Lynch, 'The Gleeson Court on Constitutional Law: An Empirical Analysis of its First Five Years' [2003] UNSWLawJl 2; (2003) 26(1) University of New South Wales Law Journal 32 < http://www.austlii.edu.au/cgi-bin/sinodisp/au/journals/UNSWLawJl/2003/2.html?query=>.

[11] Michael Kirby, 'Address Given by the Honourable Justice Michael Kirby' [2005] JCULawRw 1; (2005) 12 James Cook University Law Review 4 < http://classic.austlii.edu.au/au/journals/JCULawRw/2005/1.html>.

[12] Justice Bernice Donald, '*The Intrajudicial Factor in Judicial Independence: Reflections of Collegiality and Dissent in Multi-Member Courts*', (2016-2017) 47 *U. Mem. L. Rev.* 1123, at page 1130.

High Court judge famous for dissent, Justice Dyson Heydon.

21. On 23rd January 2012, Justice Heydon delivered a speech entitled: 'Threats to Judicial Independence – The Enemy Within'.[13] He began his speech by quoting Lord Bingham who reportedly said:

> "*Judicial independence involves independence from one's colleagues.*"

22. In his speech, Justice Heydon emphasised the correlation between the delivery of dissenting judgments and how it was a mark of an independent judge. He said this:

[13] Dyson Heydon, *Threats to Judicial Independence – The Enemy Within*, Lecture delivered on 23 January 2012. <https://d17g388r7gqnd8.cloudfront.net/2017/08/lecture_dyson.pdf>.

"*One threat to judicial independence can arise from attempts by judicial majorities to muzzle minorities.*"

23. Perhaps one of the most popular dissenting judgments known in the United Kingdom is that of Lord Atkin in **Liversidge v Anderson and Another**.[14] In my view it is the hallmark of an independent judiciary that protects the rights of a subject from any transgression by an authority in any situation. It also provides a lesson in that a dissenting judgment is not a mere idealistic imagination of a judge. In fact, it can be said to be a futuristic outlook of a judge on what the law ought to be.

24. The **Liversidge** case concerned the legality of detention of one Mr Robert Liversidge by Sir John Anderson, the then Secretary of State for Home Affairs under the Defence (General) Regulations 1939 ('Regulation 18B').

[14] [1941] 3 All ER 338.

The Regulation allowed the Secretary to detain someone if he had ‘reasonable cause to believe’, amongst other grounds, that the person was a threat to national security.

25. The majority opinion was delivered on 3rd November 1941. They gave the Regulation a subjective interpretation in that they deferred to the discretion of the Secretary. In the result, this meant that the burden of proof lay on the detainee to show that his detention was unlawful.

26. The majority of the Law Lords effectively saw it fit to allow the Secretary of State to exercise such broad powers. Perhaps their Lordships were so inclined due to the onslaught of World War II at that time.

27. Lord Atkin however vigorously disagreed. His Lordship noted that the Regulation originally required that the

Secretary of State "be satisfied" that there were reasons to detain the suspect. Parliament changed those words to "reasonable cause to believe" meaning that it required the detention to be made on objective grounds (by interpreting the amended Regulation 18B in its natural and ordinary meaning). Lord Atkin was therefore of the view that burden to justify the detention was on the Secretary.

28. These were the powerful words of Lord Atkin:

> "***I view with apprehension the attitude of judges who, on a mere question of construction, when face to face with claims involving the liberty of the subject, show themselves more executive-minded than the executive.*** *Their function is to give words their natural meaning, not, perhaps, in war time, leaning towards liberty…' in a case in*

which the liberty of the subject is concerned, we 'cannot go beyond the natural construction of the Statute.'

In this country amidst the clash of arms the laws are not silent. They may be changed, but they speak the same language in war as in peace. ***It has always been one of the pillars of freedom, one of the principles of liberty for which on recent authority we are now fighting, that the judges are no respecters of persons and stand between the subject and any attempted encroachments on his liberty by the executive, alert to see that any coercive action is justified in law.*** *In this case I have listened to arguments which might have been addressed acceptably to the Court of Kings Bench in the time of Charles I.*

I protest, even if I do it alone, against a strained construction put upon words with the effect of giving an uncontrolled power of imprisonment to the Minister. To recapitulate. The words have only one meaning: they are used with that meaning in statements of the common law and in statutes; they have never been used in the sense now imputed to them: they are used in the defence regulations in the natural meaning: and when it is intended to express the meaning now imputed to them, different and apt words are used in the defence regulations generally and in this regulation in particular. Even if it were relevant, which it is not, there is no absurdity or no such degree of public mischief as would lead to a non-natural construction.

I know of only one authority which might justify the suggested method of construction. "When I use a word," Humpty Dumpty said in rather a scornful tone," it means just what I choose it to mean, neither more nor less." "The question is," said Alice, "whether you can make words mean different things." "The question is," said Humpty Dumpty, "which is to be master – that's all." (Looking Glass, c. vi.). After all this long discussion the question is whether the words "If a man has" can mean "If a man thinks he has." I am of opinion that they cannot, and that the case should be decided accordingly." Emphasis added]

29. Lord Atkin's speech above is the hallmark of an independent judge. He was not swayed by the popular opinion at the time arising out of the fears of the war. In fact, so independent was he, that before he delivered his

speech in the House of Lords, some judges who had read his draft speech, persuaded him to change his mind. He however refused thinking it was the right thing to do.[15]

30. About 38 years later, in **I.R.C. v Rossminster & Others**, Lord Diplock, in considering the power of tax revenue officers in conducting raids, was of the view that it was up to the raiding officers to justify that they had reasonable grounds to raid. In respect of Lord Atkin's dissent in **Liversidge**, Lord Diplock said this:[16]

> "*For my part I think the time has come to acknowledge openly that the majority of this House in Liversidge v. Anderson* ***were expediently and, at that time, perhaps, excusably, wrong and the dissenting***

[15] Geoffrey Lewis, *Lord Atkin* (Hart Publishing, 1999), at page 139-142.

[16] [1980] A.C. 952, at page 1011.

speech of Lord Atkin was right." [Emphasis added]

31. Many more years later, the United Kingdom Supreme Court in its judgment delivered on 27th January 2010 in **Her Majesty's Treasury & Others v Mohammed Al-Ghabra** had before it questions relating to the legality of certain anti-terrorism legislation. Lord Hope opined as follows:[17]

> "*The case brings us face to face with the kind of issue that led to Lord Atkin's famously powerful protest in Liversidge v Anderson... Lord Bingham of Cornhill, having traced the history of that judgment, said that –*
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> > "*we are entitled to be proud that even in that extreme national emergency*

[17] [2010] 2 UKSC 2, at paragraph 6.

> *there was one voice – eloquent and courageous – which asserted older, nobler, more enduring values: the right of the individual against the state; the duty to govern in accordance with law; the role of the courts as guarantor of legality and individual right; the priceless gift, subject only to constraints by law established, of individual freedom.*"

32. No doubt, the powerful dissent of Lord Atkin influenced the United Kingdom Supreme Court to come to the conclusion that the Terrorism Order in question was made *ultra vires* because it denied the subject the 'effective remedy' to challenge it. We can see here how the Supreme Court was not persuaded by the idea of trading liberty for security through arbitrary executive conduct. True to the wise words of Lord Atkin.

33. Another famous English Judge who at times dissented is Lord Denning. One of his most famous dissents is found in **Candler v Crane, Christmas & Co**.[18] An investor suffered losses as a result of a negligent misstatement. The majority of the Court of Appeal refused to grant him damages. They opined that negligent statement was not actionable absent a contractual or fiduciary relationship. Lord Denning dissented and held that negligent statement should be actionable as the person making the statement owes a duty of care in tort.

34. Subsequently, in the case of **Hedley Byrne Co Ltd & Co v Heller & Partners Ltd**, the House of Lords preferred Lord Denning's view and upheld it as the right

[18] [1951] 2 KB 164.

one. Negligent misstatement therefore became an actionable tort. To quote Lord Hodson:[19]

> "*The majority thus went no further than Wrottesley J in the Old Gate Estates case save that injury to property was said to be contemplated by the doctrine expounded in Donoghue v Stevenson.* ***It is desirable to consider the reasons given by the majority for their decision in the Candler case for the appellants rely on the dissenting judgment of Denning LJ in the same case****. The majority, as also the learned trial judge, held that they were bound by the decision of the Court of Appeal in Le Lievre v Gould in which the leading judgment was given by Lord Esher MR and referred to as authoritative by Lord Atkin in Donoghue v Stevenson.* ***I agree***

[19] [1963] 2 All ER 575, at page 596.

with Denning LJ that there is a valid distinction between the two cases."

[Emphasis added]

35. From passage I just cited, it is apparent that the appellants in **Hedley Byrne** rested their arguments on Lord Denning's dissent in **Candler**. Imagine if Lord Denning had not authored his dissent and instead chose to keep his disagreement to himself.

36. In this country we often hear or read a slogan that says for the Rule of Law to prevail there must be an independent Judiciary. Such concept is generally understood to be independent from external influence or pressure. Yet not many of us might have pondered that within our Judiciary there is also another form of independence. The independence of a judge in making his or her decision free from any interference or influence by his or her colleagues or superiors. Such

independence manifests itself in the form of a dissenting judgment.

37. A quick glance of our Federal Constitution will tell us that there is no express provision mandating an independent judiciary or the independence of a judge. But that is if you take the literalist and pedantic approach.

38. Fortunately, quite recently the Federal Court in **Semenyih Jaya Sdn Bhd v Pentadbir Tanah Daerah Hulu Langat** [20] and **Indira Gandhi a/p Mutho v Pengarah Jabatan Agama Islam Perak & Ors**[21] in no uncertain terms declared that judicial independence forms part of the basic feature in our Federal Constitution. For that reason, we have appellate judges, particularly at the apex court, in the past and in our midst today who would not hesitate to dissent when he or she

[20] [2018] 1 MLJ 545.

[21] [2017] 3 MLJ 561.

thinks that the majority has erred in the interpretation or application of the law. This principle must be defended and allowed to continue. Of course it is not a license for any judge to dissent just for the sake of dissenting.

39. In my view, dissenting judgments do play a huge and integral role in any judicial system. As discussed above, they promote judicial independence; they may spark changes in the law be it legislative or in judicial precedent; and they generally provide a diverse view on what the law should be. The main downside of a dissenting judgment may be the uncertainty of the law it can create. And we all know that it is vital for the law to be certain otherwise the administration of the law would be a difficult task. Lawyers would find it difficult to advise their clients. However, in my opinion the positive side of allowing a dissenting judgment outweighs the negative aspect of it.

40. One instance is when a dissent of a judge in the Court of Appeal triggered the overturning of a precedent case rendered by the Federal Court.

41. It was the **Adorna Properties** saga.[22] The Federal Court had earlier on misconstrued section 340 of the National Land Code 1965 and so doing, erroneously changed our concept of indefeasibility of title from deferred to immediate. In **Au Meng Nam**[23] Gopal Sri Ram JCA (as he then was) criticised the Federal Court's decision. In light of all the criticisms, the Federal Court finally corrected its error in **Tan Ying Hong**.[24]

42. In some other instances, a whiff of dissent by a judge has helped in the change of repressive laws or the enhancement of due process.

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[22] *Adorna Properties Sdn Bhd v Boonsom Boonyanit* [2001] 1 MLJ 241.

[23] *Au Meng Nam & Anor v Ung Yak Chew & Ors* [2007] 5 MLJ 136.

[24] *Tan Ying Hong v Tan Sian San & Ors* [2010] 2 MLJ 1.

43. One such example is by Hishamudin Yunus J (as he then was) in **Abdul Ghani Haroon v Ketua Polis Negara & Anor Application**. This case concerned an application for *habeas corpus* for detention under the now repealed Internal Security Act 1960 ('**ISA'**). His Lordship allowed the application but in the process of doing so, went a step further to call upon Parliament to review the usefulness of the ISA.[25] It turns out his comment was not in vain because the ISA was eventually repealed.

44. Another example would be the judgment of KC Vohrah J (as he then was) in **Yusaini bin Mat Adam v PP**.[26] In that case, His Lordship after referring to the change in law in England, recommended that section 133A of the Evidence Act 1950 be repealed. That section makes it mandatory for a judge to corroborate the unsworn

[25] [2001] 2 MLJ 689, at page 707.

[26] [1999] 3 MLJ 582, at pages 584-585.

evidence of child witness before using it to sustain a conviction.

45. While Parliament has not yet repealed the said section 133A, it has passed the Sexual Offences Against Children Act 2017. Under that Act, in cases where children victims of sexual crimes, their evidence no longer requires mandatory corroboration. The *Explanatory Statement* to the Sexual Offences Bill, states that this was for the express purpose of departing from section 133A. This, in my view, vindicates Justice Vohrah's for his comment.

46. Another case illustration would be **Yong Teck Lee v Harris Mohd Salleh & Anor**,[27] the question was whether the decision of the High Court in respect of election matters was appealable. The majority of the Court of the Appeal took a restrictive interpretation of the

[27] [2002] 3 CLJ 422.

Federal Constitution and the Courts of Judicature Act 1964 and held that it was not. Justice KC Vohrah, however, dissented and preferred the more liberal view. He held that the construction of the law suggested Parliament intended said decisions to be appealable.

47. Not long after the decision, Parliament amended the law and allowed a right of appeal to the Federal Court.[28] Justice Vohrah was therefore correct. This would never have been known but for his dissent.

48. If anything, going by the examples given above, it goes to prove that the diversity of views especially from the Judiciary sparks lively debate and the end result has been the betterment of our laws. This is also in line with the principle of check and balance.

[28] The Court of Appeal's judgment was delivered on 6 June 2002. Parliament passed the amendment on 16 January 2003 by inserting section 36A into the Election Offences Act 1954.

49. Sometimes, in fact, our courts, in arriving at their decisions, refer to the dissenting judgments of judges in other jurisdictions. One such example would be the decision of the then Supreme Court of Malaysia in **Dewan Undangan Negeri Kelantan & Anor v Nordin bin Salleh & Anor**.[29]

50. In that case, the State Legislature of Kelantan had passed an amendment to the State Constitution effectively prohibiting party-hopping. This was challenged as being *ultra vires* Article 10 of the Federal Constitution.

51. The Executive, in supporting the constitutionality of the amendment relied on the judgment of the Supreme Court of India in **Mian Bashir Ahmad & Ors v The State**.[30] The majority of the Indian Supreme Court in

[29] [1992] 1 MLJ 697.

[30] [1982] AIR Jammu & Kashmir 26.

that case held that the prohibition of party-hopping in India was justified.

52. Our then Supreme Court of Malaysia chose to take a different approach from the majority of the Indian Supreme Court. They noted that the then Acting Chief Justice of India arrived at his conclusion based on circumstances unique to India at the time. Our Court instead looked to the dissenting view of Dr Anand J and upheld it as being the right view. The dissenting view argued that such a restriction was *ultra vires* the freedom of association.

53. Professor Hashim Kamali in his book, **Shari'ah Law: An Introduction** notes that *ikhtilaf* or "juristic disagreement" is permissible in Islam.[31] He also refers to the theory of Imam a-Shafi'i who argued that while *ikhtilaf* on the clear text of the holy Al-Quran is prohibited, it is nonetheless

[31] Hashim Kamali, *Shari'ah Law: An Introduction*, (Oneworld Publications, 2008).

permissible on matters which are open to interpretation through the usual process of *ijtihad*. Professor Hashim Kamali traces the history of Islam and notes that *ikhtilaf* existed since the early days of the philosophy of Islamic law and scholarship. To quote him:[32]

> "*The existence of ikhtilaf as a well-developed and recognized branch of fiqh is naturally indicative of a healthy climate of tolerance among the leading 'ulama' and scholars of Islam. The fact that several schools of law have attempted to provide equally valid interpretations of the Shari'ah shows that they have accepted one another and they, in turn, were accepted by the Muslim community at large. All this provides further evidence of the reality of pluralism in Islamic law…*

[32] *Ibid*.

The Companions [the Khulafa Al-Rashidin] have disagreed on matters of interpretation and it is even said that they reached consensus on this: the agreement to disagree. To accept the plurality of the schools of law is indicative of healthy ikhtilaf."

54. The above quote ties nicely with the view that dissent encourages independence of thought and paves the way for the healthy development of the law in future. We would not have been where we are today but for the healthy and vigorous contestation of ideas.

55. In conclusion, I would say this. The diversity of views, especially from the judiciary is a *nikmat* – a blessing. So for judges and would be judges as I have said earlier, be brave and do not hesitate to state your views. There is little use in being a 'yes man'. It is high-time that we scrap the "herd" mentality at all levels of our society.

56. So, addressed especially to law students present this afternoon I say this: the next time you read judgments of the courts, be sure to read them as a whole – including any dissenting judgments: do not just read the headnotes of reported judgments. And form your own view or views on the reported cases. Feel free to disagree with the judges. Be critical. Critical thinking is a much needed feature in law. Based on the writings of the late Professor Emeritus Ahmad Mohamad Ibrahim he must have shared the same philosophy.

57. Thank you for listening.