



**UCAPAN PENGHORMATAN OLEH  
YBHG TAN SRI IDRUS BIN HARUN  
PEGUAM NEGARA**

**MAJLIS MEMPERINGATI (*REFERENCE PROCEEDINGS*)  
ALLAHYARHAM TUN DATO' DR. HAJI MOHD SALLEH BIN ABAS**

**14 SEPTEMBER 2022  
MAHKAMAH PERSEKUTUAN  
ISTANA KEHAKIMAN, PUTRAJAYA**

Bismillahirrahmanirrahim.

Assalamu'alaikum Warahmatullahi Wabarakatuh dan Salam Sejahtera.

Yang Amat Arif Tun Tengku Maimun binti Tuan Mat

Ketua Hakim Negara;

Yang Amat Berbahagia Tun Raus Sharif

Mantan Ketua Hakim Negara merangkap ahli Suruhanjaya Pelantikan  
Kehakiman;

Yang Amat Arif Tan Sri Rohana binti Yusuf

Presiden Mahkamah Rayuan;

Yang Amat Arif Tan Sri Dato' Sri Azahar bin Mohamed

Hakim Besar Malaya;

Yang Amat Arif Tan Sri Abang Iskandar bin Abang Hashim

Hakim Besar Sabah & Sarawak;

Yang Berhormat Datuk Wira Mas Ermieyati binti Samsudin

Timbalan Menteri di Jabatan Perdana Menteri (Parlimen dan Undang-Undang);

Yang Arif – Yang Arif Hakim Mahkamah Persekutuan dan Hakim Mahkamah Rayuan;

Yang Berbahagia Datuk Ahmad Terriruddin bin Mohd Salleh  
Peguan Cara Negara;

Yang Berbahagia Tan Sri Datuk Suriyadi bin Halim Omar  
Ahli Suruhanjaya Pelantikan Kehakiman;

Yang Berusaha Puan Hasbi binti Hassan  
Ketua Pendaftar Mahkamah Persekutuan Malaysia;

Yang Berusaha Puan Karen Cheah Yee Lynn  
Presiden Majlis Peguam Malaysia yang hadir bersama-sama wakil Majlis Peguam Malaysia, pengerusi dan wakil peguam Persatuan Peguam Negeri Selangor,

Yang Berusaha En Roger Chin Ken Fong

Presiden Sabah Law Society;

Yang Berusaha En Antonio Sim Peak Kheong

Presiden of the Advocates Association of Sarawak (AAS);

Ahli-ahli keluarga Allahyarham Tun Dato' Dr Mohamad Salleh bin Abas;

Tuan-Tuan dan Puan-Puan yang dihormati sekalian

Bagi pihak diri saya sendiri dan para pegawai di Jabatan Peguam Negara, izinkan saya terlebih dahulu merakamkan ucapan takziah dan menzahirkan rasa dukacita kami kepada keluarga Allahyarham Tun Dato' Dr. Haji Mohd Salleh Bin Abas di atas pemergiannya pada tanggal 16 Januari 2021 yang lalu.

Izinkan saya meneruskan ucapan saya dalam bahasa Inggeris.

1. It is indeed a true privilege and honour to be a part of this solemn reference proceedings to recount and honour the memory of Allahyarham Tun Salleh Abas, a man that has always been held in

the highest esteem and respect by his legal brethren. We are also called upon to provide some reflections on his legacy.

2. When Allahyarham Tun Salleh Abas took his place of solace with his Creator on 16 January 2021 we were all swept with sadness and grieved by his sudden demise. This loss came at a point where the entire world, including our nation, was forced to deal with the emergence of an unknown deadly virus which created a mortality shock throughout the world. It was during this difficult time that the nation lost one of its brightest sons – revered as most distinguished, admired and respected jurist that ever walked among the sacred halls of the country's legal fraternity.
3. Allahyarham Tun Salleh Abas hailed from humble beginnings. He was born on 25 August 1929 in Kampung Raja Besut, Terengganu as a third child from amongst a family of seven siblings. His father, Haji Abas, was a sailor-cum-village trader, while his mother, Hajjah Wan Tijah was a homemaker. He began his early education in a Malay medium school of Sekolah Melayu Kampung Raja, Besut, where he thereon went to an English School in Kuala Terengganu and attended the Sultan Sulaiman English School. His religious roots were not forgotten as parallel to this, Allahyarham Tun Salleh

Abas also took lessons to learn the Arabic language and Islamic studies at a religious school in his hometown. His scholastic aptitude and brilliance made its first print when he obtained a Grade 1 in his Senior Cambridge Examination in 1948.

4. His eagerness to contribute to the family prompted Allahyarham Tun Salleh Abas to immediately join the public service as a clerk before he was later accepted as an administrative officer in Terengganu. He then went on to become the Assistant District Officer in 1949 until 1950. It was during this time in public service that Allahyarham Tun Salleh Abas was offered a scholarship by the Sultan of Terengganu to further his studies in England. He seized the opportunity and courageously went on this academic journey where he read law at the University of Aberystwyth, Wales. In 1954 Allahyarham Tun Salleh Abas completed his Bachelor of Laws Degree with Honours and was later called to the Bar at the Middle Temple in 1955.
5. Upon completing his studies, Allahyarham Tun Salleh Abas then returned to Malaya and commenced his distinguished legal career by joining the Judicial and Legal Service. His illustrious career in this

service was both outstanding and remarkable, whilst his promotions was testimony to his legal acumen.

6. He began this chapter of his life as a Magistrate in Kota Bharu, Kelantan and thereafter served as a Deputy Public Prosecutor in Kuala Lumpur. Although he was constantly kept busy with his duties, his undying love for legal education subsisted. While with the Attorney General's Chambers (AGC) he went on to study and obtained his Master's degree in International and Constitutional Law from the University of London in 1960. Upon his return home in 1962, Allahyarham Tun Salleh Abas continued to serve in the AGC in various positions, among others, as the State Legal Advisor of Negeri Sembilan and Melaka, President of the Sessions Court, Legal Advisors in various Ministries, Senior Federal Counsel and Parliamentary Draftsman. He then went on to become the Solicitor General, then the highest position in the Judicial and Legal Service from 1966 to 1979 since the then Minister of Law is the Attorney General. To date Allahyarham Tun Salleh Abas remains the longest serving Solicitor General at 14 years.

7. While balancing his heavy responsibilities and undertakings as Solicitor General, Allahyarham Tun Salleh Abas made a valuable

contribution to constitutional reference when in 1971 he authored the book '*Prinsip Perlembagaan & Pemerintahan di Malaysia*'. Through the publication of this scholarly manuscript he made his mark as one of the earliest local legal practitioner to do so.

8. Whilst serving as the Solicitor General too, Allahyarham Tun Salleh Abas was also a notable member of the National Consultative Council (NCC) which was formed right after the racial riots of 13 May 1969. He was one of the personalities who were directly responsible in the formulation of the '*Rukun Negara*' – a document which became the sacred commandment of our nation. This living document is an irrefutable proof of Allahyarham Tun Salleh's intellect, passion and affection for his country.
9. In 1979, Allahyarham Tun Salleh Abas was appointed directly to the Federal Court. His elevation was an acknowledgement of his percipience and astuteness of the law he so assiduously practices. The accelerated appointment was unprecedented, making it the first of its kind in Malaysian history.
10. He was later appointed as the Chief Judge of Malaya in 1983, then a year later, on 3<sup>rd</sup> February 1984, Allahyarham Tun Salleh Abas

was made the Lord President of the Supreme Court of Malaysia, which he held until his retirement in 1988. Tunku Abdul Rahman Putra Al-Haj, the first Prime Minister of Malaysia, in his foreword for the book '*May Day for Justice*' described Allahyarham Tun Salleh Abas' unquestionable character and his remarkable ascent as Lord President in the following words:

*"A man does not climb that long ladder to the pinnacle of our judicial system without proving himself every inch of the way to be upright, and extremely fastidious about his honour. His integrity must have been proven again and again in his judicial actions, his private life and all his work in the public domain. Any man who was any less than that could not have even approached that position which, by its very nature, presupposes character of the greatest probity and rectitude. The very act of appointing such a man means that he is beyond reproach."*

11. Allahyarham Tun Salleh Abas at his pinnacle anchored the Malaysian judiciary with impeccable integrity and quintessential attributes. However, the independence of the Malaysian judiciary under the able leadership of Allahyarham Tun Salleh Abas underwent an experience like no other, often under fire and

challenged by displeased adversaries. For many, the events of 1988 were an upheaval of the nation's judicial system. Rightly or wrongly, many disputed both the legality and morality of the related proceedings. Many felt that it was a time of crisis from which the nation never fully recovered. Crisis or otherwise, we cannot ignore and must duly acknowledge the courage and the contributions of the late Tun Salleh Abas for his unwavering, fearless and consistent commitment towards upholding justice and his defence towards the independence of the judiciary. His crusade was avant-garde and uncompromising where he fought fearlessly for what he truly believe was right.

12. In our tribute to Allahyarham Tun Salleh Abas, we must, unconditionally and under all circumstances, continue to guard and preserve the values, ideals and principles that he so adamantly fought for. It is said that although a life lived with integrity may lack the trappings of fame and fortune, it is always a paragon for others to follow. During his lecture for the '*Ahmad Ibrahim Memorial Lecture in 2008*', entitled "*Fifty Years of Constitutional Government in Malaysia*"<sup>1</sup>, despite the tribulations and the storm that followed

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<sup>1</sup> (2009) 17 IIUMLJ 1

him, Allahyarham Tun Salleh Abas registered his belief in the letters of the law, but was quick to remind those who are entrusted with it in the following words:

*“Perhaps there is nothing wrong with the law itself but those applying it should have strong belief in the spirit of justice and fair play.”.*

13. In one of his media interviews<sup>2</sup>, Allahyarham Tun Salleh Abas provided an insight of what elements he felt were necessary for the judiciary to continue its duties as the nation's last bastion of the law. He was quoted to say –

*“the future of judiciary depends on the courage of judges, their abilities to write good judgments and their willingness to write independent judgments as these three aspects are essential in upholding the legal system in Malaysia.”.*

14. As a judge, Allahyarham Tun Salleh's many notable judicial decisions showcased his brilliant mind, outstanding intellectual

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<sup>2</sup> <https://www.malaysianbar.org.my/article/news/legal-and-general-news/general-news/echoes-of-the-past-they-tried-bribing-me-to-leave-judiciary-quietly-salleh-abas>

analysis and admirable wisdom. His unique ability to write with clarity and lucidly such complex legal problems through intelligible exposition of legal principles are of rarity and often spoken of with reverence.

15. During his tenure as a judge, Allahyarham Tun Salleh Abas authored numerous landmark judgments and contributed to several others. His views and interpretation of wide ranging areas of the laws that he wrote, comprise the basis for the fundamental principles we legal practitioners adhere to, until this day. Any attempt to summarize the entirety of Allahyarham Tun Salleh's legacy in such a short time would be a disservice thereto and hence I shall endeavour to succinctly highlight only a few of them. Some of Allahyarham Tun Salleh's renowned judgments that constitute a major contribution to the Malaysian jurisprudence are displayed in the cases of *Abdullah Zawawi v. Public Prosecutor*<sup>3</sup>, *Public Prosecutor v. Zainuddin & Anor*<sup>4</sup>, *Public Prosecutor v. Rajappan*<sup>5</sup>, *Lim Kit Siang v. Dato Seri Dr Mahathir Mohamad*<sup>6</sup>, *Mamat bin Daud & Ors. v. Government of Malaysia*<sup>7</sup>, *Government of Malaysia v. Lim*

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<sup>3</sup> [1985] 2 MLJ 16

<sup>4</sup> [1986] 2 MLJ 100

<sup>5</sup> [1986] 1 MLJ 152

<sup>6</sup> [1987] 1 MLJ 383

<sup>7</sup> [1988] 1 MLJ 119

*Kit Siang*<sup>8</sup> and *Che Omar bin Che Soh v. Public Prosecutor*<sup>9</sup>. Even in his dissenting judgments, such as in the cases of *Malaysian Bar & Anor v. Government of Malaysia*<sup>10</sup> and *PP v. Dato' Yap Peng*<sup>11</sup>, Allahyarham Tun Salleh Abas likewise managed to equally display his intellectual legal analysis, reasoning and mastery of the law.

16. In his judgments, Allahyarham Tun Salleh Abas has always emphasized and prioritized the fortification of public interests. He would have no qualms to rebuke public servants that are inclined to exercise their powers arbitrarily where he deems fit, particularly when the interests of the public is trampled on. This was demonstrated in the case of *Pemungut Hasil Tanah, Daerah Barat Daya, Pulau Pinang v. Ong Gaik Kee*<sup>12</sup>, where in his judgment Allahyarham Tun Salleh Abas reminded as follows:

*"What then is the "convenient speed"? In our view it must be "as soon as possible" or "within a reasonable time", and not "as late as possible". Obviously what amounts to "convenient speed"*

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<sup>8</sup> [1988] 2 MLJ 12

<sup>9</sup> [1988] 2 MLJ 55

<sup>10</sup> [1987] 2 MLJ 165

<sup>11</sup> [1987] 2 MLJ 311

<sup>12</sup> [1983] 2 MLJ 35

*must vary from case to case and in our judgment seven years delay is certainly not a "convenient speed" as it is so far outside the normal period of time that no reasonable authority could ever regard it as reasonable. That being the case the court is entitled to strike down the impugned acquisition proceedings as illegal.*

*The Collector may well have plenty of work and other duties to perform within the available time at his disposal, but he must consider not only the interests of the State of which he is an official, but also that of the land owners, whose land he is acquiring. He must therefore arrange his duties in such a way as not to neglect their interests altogether. Failure to do so, resulting in the diminution of their interests, in our view, amounts to an abuse of power, which entitles the land owners concerned to an order of certiorari."*

17. The passage in essence demonstrates and symbolizes Allahyarham Tun Salleh's high regard for the principle of fairness and reasonableness which he so justly demonstrates consistently during his time on the bench.

18. Although his career in service of the law was highly demanding, Allahyarham Tun Salleh's affection in the academia of law could not be suppressed. Whilst in the judicial and legal service, Allahyarham Tun Salleh Abas took time to teach as a part time lecturer, imparting his knowledge on constitutional law to the students at the History Department at the University of Malaya from 1964 to 1967. He was also an external examiner for the faculty of law at the University of Malaya and the National University of Singapore. For his many accomplishments and contributions, Allahyarham Tun Salleh Abas was conferred honours by both local and foreign universities, among those being – a Doctorate in Letters by Universiti Putra Malaysia and University of Malaya, a fellowship from the University of Harvard in 1971, a fellowship from the East-West Center, Honolulu, Hawaii in 1971 and of course a fellowship from his alma mater, the University of Wales in 1989. He was also appointed a visiting Professor of the University of Monash and the University of Melbourne, Australia immediately after his retirement from the bench.
19. I do sincerely believe that Allahyarham Tun Salleh Abas epitomized all the required qualities of being, if not the best, one of the best judges this nation has ever seen. About 2,400 years ago, Socrates

gave his iconic description of the essential qualities of a good judge.

He stated –

*“Four things belong to a judge: To hear courteously; to answer wisely; to consider soberly; and to decide impartially.”.*

20. It is without a doubt in my mind that Allahyarham Tun Salleh Abas demonstrated these qualities in the discharge of his judicial duties. His demeanour was placid, his tone was firm, his dealings were respectful, his management was efficient and above all he was impartial and independent. His dedication to work was only one of many attributes of Allahyarham Tun Salleh's outstanding personality as he was a man who was widely respected for his legal wisdom, scholarly bent of mind, and his affable and humble persona. His service and commitment to the law was commendable and wholeheartedly, sometimes maybe even at the expense of his own family and children.

21. Through the many travails endured by Allahyarham Tun Salleh Abas during his lifetime, he reflected and personified a man's innate ability to elevate his own self, through relentless endeavour and ceaseless will, exemplifying the adage that the best place to find a

helping hand is at the end of your own arm. Allow me to quote the Quranic letters in Surah Al Kahfi, verse 30, where Allah SWT in His mercy reminded us all that –

إِنَّ الَّذِينَ ءَامَنُوا وَعَمِلُوا الصَّالِحَاتِ إِنَّا لَا نُضِيعُ أَجْرَ مَنْ أَحْسَنَ عَمَلًا

*“Indeed, those who have believed and done righteous deeds – indeed, We will not allow to be lost the reward of any who did well in deeds.” (Quran, 18:30)*

22. With the passing of this legal luminary, our legal fraternity has lost a stellar jurist who has not only contributed immensely to the Malaysian jurisprudence but also to greatly furthering the collective probity and propriety of our society. May the mercy and blessings of Allah SWT be always upon him. We pray that the Almighty too shall give strength to the family members to bear such irreparable loss with fortitude.
23. Allow me to conclude by humbly praying in the hallowed tradition of the Bar, that this Reference held in honour of Allahyarham Tun Dato' Dr. Haji Mohd Salleh Bin Abas be entered into and be preserved in

the Court archives and that a copy of the same be extended to the family of Allahyarham Tun Dato' Dr. Haji Mohd Salleh Bin Abas.

Thank you.

Wabillahi Taufiq Walhidayah Wassalamualaikum Warahmatullahi Wabarakatuh.