Speech delivered by Chief Justice Maria Lourdes P. A. Sereno during the 12th ALA General Assembly on February 26, 2015 at the Makati Shangri-La Hotel, Makati City

Thank you very much Atty. Alonzo Ancheta. He is a friend so he is overly kind to me. And I was telling Atty. Avelino Cruz, that might run into a formal speech already. Good morning everyone!

May I request everyone to please sing with me the second ALA (ASEAN Law Association) anthem, you know what it is? It is “Happy Birthday” to the Chief Justice of Singapore, Hon. Chief Justice Sundaresh Menon. It is his birthday today. So shall we sing it? [sings Happy Birthday song]

So technically he is the youngest Chief Justice in the ASEAN. He will be there until he reaches 65 years old, or roughly 15 years. I think he and I will be seeing each other in ALA meetings for more than a decade hence and hopefully he will reach the APEC also. And so do I have the same ambition also and so do our friend, the Chief Justice of Malaysia, who was saying why he is not part of the Heroes Hall of Fame? And I was saying and Chief Justice Menon is saying, isn’t it obvious, you have to be dead to be awarded.

So welcome everyone to a beautiful but choking Manila! And may I say to everyone who just landed within the past few days. Maligayang pagdating. I
am not going to use Mabuhay anymore because my Chief Justice friend already explained that. And now, Maligayang Pagdating means a pleasant or a very beautiful arrival. So to all the delegates in this 12th plenary session of the ALA, and I know it is timely themed, “Sharing Prosperity at the Crossroads of ASEAN Integration: The Legal Challenges”.

But any message on my part will not be complete without acknowledging that we have been indeed honored by the representatives of the foreign governments here, both from the ASEAN and non-ASEAN countries. We are honored by your presence.

May we also recognize representatives from international organizations, some of whom have been steadily supporting the work of ALA over the decades, representatives of Congress, members of the judiciaries of the ASEAN region, especially my fellow Justices of the Supreme Court of the Philippines, who came in a strong show of force this morning. May I ask my colleagues in the Supreme Court of the Philippines to please stand to show how much we value this conference, led by Justice Velasco — are you there? No, I think they left already because we actually have a session, which starts at 2 o’clock [in the afternoon], but they were here this morning.
And members of the legal profession and the Bar. But may I please honor those whose presence we really have to recognize today, and am very happy that in the first day of this General Assembly, we have the Chief Justices, led by no less than our President, the Chief Justice of Indonesia, also the Chief Justices of Brunei, Malaysia and of course, Singapore. But the other heads of delegation are equally eminent and may we also thank the Vice President of the Supreme Court of Cambodia, Professor Sidik Suraputra of Indonesia, Hon. Justice Khampa Sengdara of LAO PDR, Hon. Kyaw San of the Attorney General’s Office, Hon. Justice Direk Ingkaninanda of the Court of Appeals of Thailand, and Hon. Dr. Prof. Le Minh Tam of Vietnam; as well as retired Justices, Presidents and Officers of ALA, as well as families of those who have been honored this morning. Of course, my deepest thanks also to my dear friend, Atty. Avelino Cruz, the President of the ALA Philippines, who will now take the leadership of ALA, and the Honorable Swandy Halim, Secretary General of ALA.

I am grateful actually to be here because I have come full circle, as Atty. Cruz and Atty. Ancheta said, from being a young professor delivering a lecture at the ASEAN General Assembly in different countries. At that time I was a
fully subsidized delegate, led by the generous support of Atty. Avelino Cruz and his friends.

I remember that at that time, it was quite ambitious for any of us to be talking about integration and going into a brave new world where you are talking about competition policy, international trade law, investment arbitration, and so on and so forth.

But now, that world does not seem too distant anymore because as I see it, it was actually in a similar gathering of legal eagles, the conference “Legal Development in ASEAN Countries,” which was hosted by the Indonesian Government in Jakarta in February 1979, that ALA has had its start. The delegates then — that was 1979 so you could just imagine the material context of the 70’s, the region was not attracting that much attention yet — but the delegates had the wisdom to discern that as ASEAN lawyers, they “had a pivotal role to play in promoting greater ASEAN cooperation.” This goes against the grain of lawyers’ jokes, where lawyers are supposed to be promoting discord because it is good for business. But now here, you’re hearing lawyers talking about playing a pivotal role in increasing cooperation in the region.
And you know, when you look at ALA’s objectives, it shows the strategy that was chosen that ALA would primarily be an assistant or would usher in or would facilitate by creating an organizational framework of cooperation in a region of wide diversity in history, culture, language, and faith. Not surprisingly, ALA sought to do this in the area of expertise of its members, which is law.

Now when I was a young professor and I was looking at the line-up of topics and activities in ALA, I was always wondering why golf had to play a central role. Decades later, maybe 25 years from when I first saw how the ASEAN Law Association, itself as the ALA, as well as how the ALA was evolving, I now fully understand why golf had at that time had to occupy a lot of time from Judges, practitioners, and professors.

And now I understand, in keeping with his strategic nature, the Chief Justice of Singapore is trying to learn golf. But I said, you know we women have different imperatives, the sun is bad for the skin — we will get to our objective in another way, somehow. But I was also struck with the fact that an ALA conference could not take place without being capped by a very lively exchange of cultural sharing that is — singing, dancing, and a lot of side chats
in between. So it is I think the glue that held ALA together, more than anything.

And I noticed that ALA, for all its formal use of legalese, actually was central to people-to-people exchanges in the region. If there has been anything that has generated trust among us members of the ASEAN, I think it has to be people-to-people exchanges. It has been the fact that we are able to laugh at the same jokes, find the same thing funny or look at the same awkward situation and try to foster a healthy competitive spirit, complete with a wager among golfers. So I think that we will see more of that to come. But let me now talk about what I see is a transition, both in the ASEAN as a formal organization that now has a separate personality and ALA, as the only civil society organization that is formally recognized by the ASEAN.

I think that ALA, with its legal orientation and commitment to the Rule of Law, of course it was expected, considering its membership, actually foreshadowed the evolution of the ASEAN itself from a loose, informal association to a rules-based community. I remember that when I was a head of the Research Institute in the UP College of Law, and we came up with a commemorative book on the ASEAN’s 30 years of existence, I was actually
monitoring the evolution of the ASEAN from an informal gathering to one that was already talking seriously about rules and enforcement of rules.

At the time the ASEAN was established under the 1967 Bangkok Declaration, it did not yet consider it timely to confer legal personality. But now it has turned on a new page. And not only is this new page with respect to its personality, it is also now involving from a largely informal, consensual organization to one where you are talking about rules and rules enforcement. And this basically highlights the relevance of the ASEAN Law Association as the only organization recognized, thus far, and to what extent the possibilities are for us to influence the development of the ASEAN as a region.

Now the hymn that was composed by Atty. Avelino Cruz and Justice Magdangal de Leon, talks about a future with no borders, but in order for that to come about, we all know that in order to prevent discordant conflicts among us, we have to talk about how the ground rules have to be set.

Remember that this 650 million population that Chief Justice Menon was excited about in his speech is a population with a spectrum of diversity not only in the way that peoples view their lives, but in their religions and also in their political experiences.
Thus, we are seeing an ASEAN Charter that is largely doing away with a more *ad hoc* and informal approach, and we are seeing more in the ASEAN the establishment of institutional working bodies and mechanisms.

And we have three pillars of this Community that is sought to be created: the ASEAN Political-Security Community (APSC) Pillar; the ASEAN Economic Community (AEC) Pillar — which we lawyers think will improve the services that we can provide across the region; and the ASEAN Socio-Cultural Community Pillar — on the principles by which these pillars are supposed to be working together for political cohesion, economic integration, and social responsibility.

And I am very happy as a person, who believes so much in the value of human dignity, that human dignity will be given prime importance in the community together with the community’s responsibility to continue to encourage social responsibility.

The APSC Blueprint envisions that the characteristic of the Political-Security Pillar would be “A Rules-based community of shared values and norms.” In fact, it formalized actually ALA’s role towards this end when it entrusts “the ASEAN Law Ministers Meeting (ALAWMM), with the cooperation of other sectoral bodies and entities associated with ASEAN including
specifically the ALA to develop cooperation programmes to strengthen the rule of law, judicial systems and legal infrastructure.” It also mandates the Blueprint of the ASPC the “Enhance[d] cooperation between ALAWMM, the Law Ministers, the ALA and organisations through seminars, workshops and research on international law, including ASEAN agreements.”

It therefore actually opens the doorway wide for the ALA to increase its participation in how the ASEAN future is going to be fashioned. Heightened economic activities are supposed to be accompanied with a greater shift to the Rule of Law. And there is where you see that these meetings of ours, whether in the form of General Assemblies or Annual Meetings of the governing council, become very important.

By Rule of Law, it is meant the observance of rules rather than the exercise of discretion. This is not surprising because when you are trying to create a special market as it is spelled out in the ASEAN Charter, and this single market entails “the creation of a single market and production base in which there is free flow of goods and services and investment; facilitated movement of business persons, professionals, talents and labour; and freer flow of capital,” — you cannot do that without utter chaos, unless such freedom of movement is based on the Rule of Law.
It is also worth noting that the ASEAN also has existing FTAs or Free Trade Agreements with the East Asian economic powerhouses – China, Japan, and South Korea – as well as India, Australia, and New Zealand. All of these arrangements require a sound legal environment in the ASEAN for timely and rational and predictable resolution of disputes arising from cross border economic activities and effective implementation of international business contracts and other agreements.

The challenges now lie not only in the formulation and cognition of the applicable rules considering the differences in the legal systems of the ASEAN but also in ensuring the effective implementation of such rules. I believe the responsibility as to the latter in large part falls on each judiciary in the region, considering that there is no supranational court in the ASEAN. Judiciaries, however, are not self-contained institutions. Not only judges but also the lawyers appearing before them must be prepared for the legal challenges of the ASEAN integration envisioned to be completed by the end of this year.

And as I commend the ALA for helping prepare the lawyers in Southeast Asia to meet the above legal challenges through the workshops like those that will be conducted in the following days. These will help our lawyers make the necessary transformation of mindset from being purely domestic lawyers to
international lawyers. The workshops will address, among others, “the legal implications on the ASEAN integration of cross-border practices and commercial laws of the ASEAN legal community, as well as such fundamentals as commercial arbitration, free access to courts, and the rights of citizens to justice within the ASEAN countries.”

But there is also another thing that ALA should be given credit for: it has helped fill the vacuum in the ASEAN architecture with respect to judicial cooperation in the region. With the aid of ALA, the Supreme Court of Singapore hosted the inaugural Meeting of the ASEAN Chief Justices on August 23, 2013. In the said meeting, we agreed, the Chief Justices, on the following objectives: 1) promote close relations and mutual understanding amongst the ASEAN judiciaries; 2) provide a regular forum for the ASEAN Chief Justices to discuss and exchange views on common issues facing the ASEAN judiciaries; and 3) facilitate judicial cooperation and collaboration among ASEAN judiciaries with a view to accelerate the growth and development of the ASEAN. We also discussed how develop an internet portal to improve the flow of information on ASEAN judiciaries; to promote judicial education and training by collaborating on ideas to enhance the training opportunities for judges and judicial officers within the ASEAN; and harness judicial
cooperation within the ASEAN by collaborating and sharing best practices in the use of court technology, case management, and service of court processes within the ASEAN to promote economic growth and development of the region.

In our second meeting last September 2014 in Malaysia, it was decided that with respect to the Judiciaries Portal that we would already usher in, first, an English Language portal at the beginning and we had already agreed that we will target the audience and that we are going to agree on the content and objectives. With respect to training of judges in the region, as you can see, the Chief Justice of Indonesia has already inaugurated the first training program on environment and this judicial training in the region is going to also be a joint responsibility with the Philippine judiciary.

It was also similarly decided that Malaysia has been pushing for this specially with respect to the matter of facilitating the service of civil processes within the ASEAN. And I along with the Chief Justice of Singapore, have also given our full encouragement to mutually facilitating the service of civil processes.

In a few days from now, it will be our turn, the Philippine judiciary’s term to host the next ASEAN Chief Justices 3rd Meeting in the beautiful island
of Boracay. We hope to build on what has already been started and to enjoy ourselves as well. Among others, we hope to discuss the institutionalization of the ASEAN Chief Justices Meeting (ACJM); the ways of improving the ASEAN in terms of trade, investments, services, and facilities vis-a-vis our role as judiciaries; concerns of child cross-border disputes, environment concerns, international standards for judicial performance. And it is in this aspect therefore that the process by which we can have a candidates change among the top judicial officers in the region, that we hope to usher in really the reign of the Rule of Law in stronger measure in the area called the ASEAN.

We have already had some achievements in coming out with statements as Chief Justices. We made statements and have come to an agreement in Singapore as well as in Kuala Lumpur. We also made other judicial cooperation measure when we have parallel conferences among the Chief Justices Roundtable on Environment in Indonesia, as well as in Melaka, Malaysia.

Likewise, we would also like to commend the achievements of the other judiciaries. For example, Singapore has launched the International Framework for Court Excellence (IFCE), and this consists of checklists and self-evaluation tools to help the Judiciaries improve court performance. I am sure all of the
ASEAN Judiciaries have similar tools that we appreciate the fact that more science is going into performance evaluation. And the Chief Justices — I have personally also supported the creation of International Standards of Performance to which we can hold ourselves up to.

As a sidebar, know that we have the most number of typhoons in the world — I believe so. You will see perhaps that both in Manila, where it’s difficult traffic, and in Boracay, with its natural beauty, that we Filipinos have a way of bouncing back. Maybe for all its worth, I think you have recognized already that the Philippines is committed to the ASEAN and the fact that it commits its music to enhance the spirit of cooperation among us, by both creating the hymn and the anthem, by leading in community singing and leading also in the art of dance which is starting to be par for the course now for ASEAN gatherings. We are also committed to show the best to our ASEAN counterparts, how a people can showcase the best of the human spirit in spite of all its natural travails. I think that if there is any laboratory in the world for scientists to look at the effects of climatic changes, it would be in the Philippines where many of these experiments and studies can be done. But the part of the equation which has not yet been fully understood and studied is how in the face of typhoon Yolanda or Haiyan, the people of Tacloban and
the Visayas were able to bounce back, as well as how we are able to bounce back from the earthquakes, as well as in the floodings that confront our major Metropolitan cities. I think that is where we can best give our contribution to the ASEAN. We have faced so many circumstances, varied difficult, exhilarating, depressing but some of them have unified us as a people. When we showed in 1986 how people can galvanize and lead the freedom from the streets for democracy, a fight for freedom that has served as a beacon to democracy movements all over the world. In a certain sense, now we are willing to lend our spirits and our energies, whatever talent God has given us – our lands, our rivers, our seas – to show that indeed with greater cooperation, based on the Rule of Law and for the part of the judiciary, keeping in mind the proper constitutional role of the judiciary, how we can help usher in a more prosperous ASEAN for the betterment of the human individual within the ASEAN, his family, and his community. There is more than reason for hope in this region, and I think that you can feel it in Manila, you will feel it when we meet in the evening for our social events, and finally when you get to experience how life can be in beautiful, Boracay. So thank you very much, welcome and congratulations!