

**OPENING ADDRESS OF HIS HONOR FRANCIS S. KORKPOR, SR.
CHIEF JUSTICE, SUPREME COURT OF LIBERIA
OCTOBER TERM 2015
OCTOBER 12, 2015**

MADAM PRESIDENT;

MR. PRESIDENT PRO TEMPORE & MEMBERS OF THE LIBERIAN SENATE;

MY COLLEAGUES OF THE SUPREME COURT BENCH;

FORMER CHIEF JUSTICES & ASSOCIATE JUSTICES;

THE MINISTER OF JUSTICE/ATTORNEY GENERAL & DEAN OF THE SUPREME COURT BAR;

MEMBERS OF THE DIPLOMATIC CORPS;

JUDGES OF THE CIRCUIT & SPECIALIZED COURTS;

THE PRESIDENT & MEMBERS OF THE LIBERIAN NATIONAL BAR ASSOCIATION;

THE PRESIDENT & MEMBERS OF THE ASSOCIATION OF FEMALE LAWYERS;

THE PRESIDENT & MEMBERS OF THE NATIONAL ASSOCIATION OF PUBLIC DEFENDERS;

STAFF OF THE JUDICIARY;

MEMBERS OF THE PRESS;

DISTINGUISHED LADIES & GENTLEMEN:

It is my pleasure as always, to welcome you to the opening ceremony of the Supreme Court. After a short period of rest, we are happy to be back to sit, hear and decide cases in the second term of this Court for this year. I welcome back to Liberia, those of my Colleagues who travelled out of the country for their vacation.

We cannot stop thanking God for the many blessings He has continued to shower on us as a people and as a nation. In times of challenges, trials and tribulations, He has firmly stood by us, providing the strength and courage to see us through. We at the Supreme Court are particularly grateful for His gift of wisdom in handling all cases that come before us, especially cases of high profile nature with serious national and international implications. It behooves us to show Him our gratitude by always striving to do His will.

I regret to inform you, at this time, that between the time we last met for the opening of the March Term and now, we lost, at the cruel hands of death, a rather large number of judicial workers. Twenty-five of our co-workers departed for the next world. Amongst them were a serving circuit judge and a retired circuit judge. As far as I can recall, this is the largest number of loss of our compatriots experienced between term time. They are:

No.	Name	Position	Assignment	Date of Death
1.	Her Honor Evelina Z. Quaqua	Circuit Judge	Gbarpolu County	August 12, 2015
2.	His Honor William K. Ware	Retired Judge	Bomi County	August 4, 2015
3.	His Honor Brown Toteh	Judge, Debt Court	Sinoe County	June 11, 2015
4.	His Honor James B. S. Groteo	Judge, Probate Court	Grand Gedeh County	August 9, 2015
5.	His Honor Eddie B. Whyne	Stipendiary Magistrate	Bong County	June 24, 2015
6.	His Honor T. NyeumonSwen	Stipendiary Magistrate	Sinoe County	May 16, 2015
7.	Cllr. Alexander G. Bryant	Lawyer	U.S.A.	Sept. 28, 2015
8.	His Honor Moses S. Doe	Associate Magistrate	Sinoe County	July 3, 2015
9.	His Honor Abraham Panyannoh	Associate Magistrate	Sinoe County	August 15, 2015
10.	His Honor Eugene Quiqui	Associate Magistrate	Nimba County	June 13, 2015
11.	Her Honor Florence Jusufu	Associate Magistrate	Margibi County	May 2, 2015
12.	Atty. William W. Sickey	Public Defender	Grand Kru County	Sept. 21, 2015
13.	John SeiKeagon	Deputy Director, Internal Audit	Temple of Justice	August 17, 2015
14.	Abraham Teah	Clerk of Court, Debt Court	Sinoe County	April 29, 2015
15.	Kingsley Kangoma	Clerk of Court	Bong County	March 27, 2015
16.	Matthew C. Wleh	Clerk, National Labor Court	Temple of Justice	October 6, 2015
17.	Lucy Cooper	Bailiff, Supreme Court Clerk's office	Temple of Justice	April 29, 2015
18.	Charles Dicker	Bailiff, Circuit Court	Sinoe County	August 15, 2015
19.	Gbassay Kiaway	Bailiff, Circuit Court	Cape Mount County	June 16, 2015
20.	Lassana Sheriff	Bailiff, Gbarma Magistrate	Gbarpolu County	July 1, 2015
21.	Agnes Smith	File Clerk, Traffic Court	Temple of Justice	June 10, 2015
22.	Isaac Morris	Security	Temple of Justice	June 18, 2015

23.	Sarah Gbarwood	Caretaker, Maintenance Division	Temple of Justice	March 23, 2015
24.	Victor Sonpon	Messenger, Maintenance	Temple of Justice	June 1, 2015
25.	Vincent Nimely	Caretaker, Maintenance	Temple of Justice	October 4, 2015

We recognize and acknowledge with thanks, the contribution made by each of these judicial workers to the Judiciary and the nation. We extend profound sympathy to their families and pray that God will grant them eternal rest.

Members of the Bar, distinguished ladies and gentlemen, I am pleased to inform you that based on our recommendation the President of Liberia nominated Counsellor Yamie Quiqui Gbeisay and Attorney Joseph S. Fayiah to the Liberian Senate to serve as Relieving Judge and Judge of Criminal Court “E” respectively. They were confirmed by the Senate, appointed by the President and subsequently commissioned by me on behalf of the President. Counsellor Gbeisay comes to the post with a wealth of experience, having practiced for many years before the lower courts and this Court. As for Attorney Fayiah, I consider him a success story in the Judiciary. He joined the Judiciary as a Justice of the Peace. He was later appointed as Associate Magistrate and then as Stipendiary Magistrate. While serving as Stipendiary Magistrate, he enrolled at the University of Liberia and graduated with a first degree which propelled him to matriculate at the Louis Arthur Grimes School of Law from whence he also graduated. He is a classic example of a focused and determined person who desired to climb from pit to top. We welcome Judge Gbeisay and Judge Fayiah into the ranks and files of the Judiciary.

On July 22, 2015, the court complex in Greenville, Sinoe County was dedicated by the President of Liberia. The program formed part of the activities of the Independence Day Celebration in that County. The complex houses the Third Judicial Circuit Court, the Debt Court, Revenue Court, Traffic Court, and the Magistrate Court of Greenville, Sinoe County, with offices for key judicial actors. Three days thereafter, the Twelfth Judicial Circuit in Barclayville, Grand Kru County was also dedicated. But unlike the court in Sinoe County, the one in

Grand Kru only houses the Twelfth Judicial Circuit and does not have rooms for other courts and offices for judicial actors. As such, it is not a judicial complex. In accordance with the current plan of the Judiciary, every judicial circuit should have a court complex that houses all courts located in the capital of every county in the Republic. The plan includes the construction of a fence around the complex and the construction of a living quarters for the resident and assigned circuit judges. The scope and size of each facility depends on the case load of the particular judicial circuit.

Ambitious, yes, but we have determined that this is the right thing to do. The benefits of a judicial complex are enormous. In a judicial complex, the staff of the Judiciary and other stakeholders work in an improved environment with better facilities; the availability of many courts and offices in a single structure at a central location makes it easy for party litigants to go to the court of their choice; and while in such close proximity, judicial actors can better and more effectively coordinate activities for the speedy disposition of cases. Perhaps most importantly, a judicial complex promotes judicial independence and minimizes the embarrassments which the courts have on numerous occasions been subjected to by local government officials. It is now time that the Judiciary, an independent branch of the Government, be housed in its own facilities throughout the country. As I speak, many of our courts, including circuit courts, are still operating from administrative buildings owned either by the Executive Government, or from properties owned by private individuals who are potential litigants before the courts. This practice has the propensity to compromise the independence of the Judiciary in many respects.

So, we will construct an annex to the Grand Kru Court to house the remaining courts in Barclayville and provide other facilities appropriate therein, so that Grand Kru County too will have the full benefit of a judicial complex as we already have in some counties and as we intend to have in the other counties.

The construction of the judicial complex in Tubmanburg, Bomi County is proceeding according to plan, while the contract for the judicial complex in Nimba County has been concluded. Construction work will commence as soon as the ground breaking ceremony takes place.

Under the bilateral agreement between the People's Republic of China and Liberia, three personnel of the Judiciary were recipients of scholarship. They are: George D. Johnson, Patience Dolo and Octavious Klah. They are currently in the People's Republic of China for graduate studies in information technology and networking, public finance and financial management respectively. We thank the Chinese Government for this goodwill gesture aimed at empowering the Judiciary workforce.

The Swedish Government, through the Justice and Security Trust Fund, has provided funds for the construction of four magistrate courts in the Omega Community, Montserrado County; Botota, Kokoyah area, Bong County; Vahun, Lofa County; and Karnplay, Nimba County. The estimated cost of the project is US\$612,388.90. We express gratitude to the Swedish Government through, the Justice and Security Trust Fund for this generous assistance. This will go a long way in providing access to justice to a large segment of our population.

The United Nations Development Program (UNDP) has made contribution to the Judiciary of assorted items, they are: wooden shelves, book shelves, thermometers, clorox, manual type writers & ribbons, a canon copier, desktop computers & printers and some A4 & legal papers. We thank UNDP for this generous contribution.

Based on an invitation extended by the Widener University Law School in the state of Delaware, USA, and Potter Anderson & Corroon LLP, Madam Justice Jamesetta H. Wolokolie and Mr. Justice Philip A.Z. Banks, III, attended the African Justice and Business Program from August 24 – 27, 2015, while on vacation in the USA. The program afforded opportunity for the Justices to

interact and share experiences with members of the Delaware legislative and judicial system and business community.

We have begun operationalizing the new jury law on a gradual basis. Counsellor George C. Katapkah, former Stipendiary Magistrate and former Instructor at the James A. A. Pierre Judicial Institute has been appointed National Jury Manager. The rollout is now in Montserrado, Bomi and Margibi Counties. The program will subsequently be extended to all judicial circuits in accordance with the Act Creating the National Jury Office.

We have employed six new public defenders and assigned them to various courts in Montserrado County. Two of the public defenders are assigned to Criminal Court "E" to speed up the trial of sexual offense cases, especially rape cases.

We note with serious concern that the crime of rape continues to be a menace to our society, posing serious challenges to the dispensation of justice. Conviction records show that girls as young as two years old have been assaulted and brutally abused through this heinous and despicable act. While we recognize and will at all times accord people accused of all crimes, including rape, the rights provided under the law, especially the right of presumption of innocence until proven guilty, and the right to be represented by counsel, no efforts will be spared in dealing with the situation. We have therefore instructed that lapses in trial processes that impede speedy, fair and impartial trial must be avoided. This is why we have assigned two public defenders at Criminal Court "E" to expedite the trial of cases; and this is why we gracefully welcome the appointment of His Honor Joseph S. Fayiah as the second judge at Criminal Court "C."

The Act establishing Criminal Court "E" provides for two judges to preside at that court, but since its establishment, only one Judge has been appointed. The Act also establishes in each county of the Republic of Liberia, a separate and

special division of the circuit court to be called Sexual Offences Division to handle sexual offence cases. However, due to lack of infrastructural facility, only Criminal Court "E" in Montserrado County is currently operating as a Sexual Offences Court. We are working in close partnership with the GOL/UN Joint Program Initiative to Prevent and Respond to Sexual Gender Based Violence and Harmful Traditional Practices to construct facilities in a number of judicial circuits to pave the way for the appointment of judges to preside over sexual offence cases. Priority will be given to Bong, Lofa, Nimba and Grand Bassa Counties from whence, according to records, large numbers of sexual offence cases are reported. I should note at this juncture, that we are informed that part of the problems hampering the speedy and effective prosecution of rape cases is that some victims and their parents or relatives are compromising rape cases and refusing to provide material evidence to establish the cause. Rape, being a crime, is committed against the State and not against an individual, even though the individual is the victim of the physical act. Only the State can decide whether or not to proceed with trial in a criminal case. It is therefore utterly wrong for any victim or his/her parent or relative to compromise the case. And refusing to provide essential evidence against the accused leaves room for the wrongdoer to go with impunity.

The James A. A. Pierre Judicial Institute has concluded the recruitment of college graduates for what is called the Professional Magistrate Training Program. Successful candidates will undergo intense academic training for a period of twelve months followed by an on-the-job training for a period of one month during which the trainees will be assigned to sitting Stipendiary Magistrates throughout the country to be tutored in magistrate court proceedings. Sixty persons graduating under the program will serve as associate magistrates. The overall target is to eventually train and deploy a total 300 associate magistrates throughout the country as part of the reform process of the Judiciary. The Professional Magistrate Training Program was first

conducted in 2009, during which sixty associate magistrates were also trained. The program has been a huge success.

Prolonged detention without trial remains a serious challenge within the justice sector. We have advised and encouraged, and continue to advise and encourage judges and magistrates to take full advantage of provisions under the law for alternatives to incarceration and the need to promptly attend to court cases. We established, in conjunction with the Ministry of Justice, the magistrate sitting program at the Monrovia Central Prison in an attempt to curb or in the very least, minimize this perennial problem of prolonged detention. The program requires magistrates, prosecutors and public defenders to meet at the Prison on a scheduled basis, and review cases of detainees for speedy action. For some time, especially during the Ebola crisis, significant progress was made, as pretrial detention rate not only in the Monrovia Central Prison, but throughout the country, was reduced to bare minimum.

However, according to recent report, the population of the Monrovia Central Prison has increased with 84% of inmates therein constituting pretrial detainees. This is alarming. Our law provides for the speedy trial of cases with priority given to criminal cases. Where there is no evidence to proceed to trial, there are adequate provisions of law for the release of the detained persons. This is done without prejudice to the State that prayed for the issuance of the criminal writ. Keeping the accused persons behind bars over the period allowed by statute without trial, amounts to travesty of justice.

Report of the surge in the number of pretrial detainees necessitated my visit to the Monrovia Central Prison on September 8, 2015, where I was met on arrival by the Minister of Justice/Attorney General, Counsellor Benedict F. Sannoh. In the coming months, we will take more concrete steps in addressing the problem of pretrial detainees.

Members of the Bar, distinguished ladies and gentlemen, on assuming leadership we pledged that the Supreme Court, as head of the Judiciary, will not relent in taking appropriate measures, even if such measures require stern disciplinary actions against key members of the Judiciary. This is necessary to restore public confidence in our court system. We have done this in the past and we will continue to do this as the need arises. Quite recently, in an opinion delivered during the adjournment of the last term of this Court, we took action suspending His Honor J. Vinton Holder, Judge of the Monthly and Probate Court for Montserrado County, for the period of one year. The litany of wrong acts amounting to violation of the judicial canons for which the punitive action was taken against the Judge is contained in the case: *Mustapha Fallah v. The Intestate Estate of Velma Gibson-Ajavon*.

We have noticed and also received further reports that some judges and magistrates are becoming very slack on duty. They report late for work in the morning and leave early. Some are said to be teaching at higher institutions of learning during primetime when their courts should be in session. This is wrong and amounts to conflict of interest. Judges involved in such unwholesome acts should desist now or they will face penalty.

Rule #1, Circuit Court Rules as revised, provides:

“The Circuit Courts shall meet regularly according to law, and the judges assigned shall be in prompt attendance, unless prevented by sickness or such other inability over which they have no control...”

Rule #3 provides:

“On the first day of the opening of the [circuit] court in regular session and on Saturdays, the Court shall meet at 10:00 am and on all other days at 8:00 am. The recess and day to day adjournment of the court shall always be at the discretion of the presiding judge, he having due regard for expediting as much work as possible within the working day...”

Judicial Canon #15 requires a judge to be prompt in the performance of his judicial duties, recognizing that the time of litigants and lawyers is of value and habitual lack of punctuality by the judge in his administration of the business of the court should not be condoned. These rules, notwithstanding, the frequent tardiness of some judges lend credence to the wrong and unfounded notion that "the time is what the judge says it is." When a judge is not punctual, he loses moral authority to administer penalty to lawyers and support staff who may themselves report late at his/her court. When a judge is not punctual, work is stalled and the docket remains crowded.

Every judge was a practicing lawyer. So, we all know that a lawyer's time is highly budgeted. There is a saying that a lawyer's time is his money. In this jurisdiction, it is not unusual for a lawyer, on a typical work day, to present an argument for 45 minutes before the Monthly and Probate Court of Montserrado County in a contested will matter starting at 9:00am; participate in a trial involving aggravated assault for two hours at Criminal Court "A", and still attend to an action for summary proceedings to recover possession of real property before the Magistrate Court in Kakata, Margibi County on the same day. But this tight but workable schedule could be seriously disrupted, if for example, the probate matter starts at 11:00am instead of 9:00am as scheduled, or if Criminal Court "A" does not keep to the scheduled time of 10:00am.

A lawyer who is unable to attend his client's case having due notice thereof is required to present a tangible reason for his failure to attend upon the cause, otherwise, there may be dire consequences; the court may render default judgment against the client. Just as the lawyer is expected to inform the court of his inability to be present in court, the judge, too, should inform the lawyers and/or parties why he cannot be in court on the scheduled date of a case. A judge may fall sick, he may be bereaved or his vehicle may break down while on his way to the court. Certainly, these are compelling reasons why a judge could be late or not be present in court. A simple telephone call to his clerk or other

court officers could convey the message. In this way, the lawyer can proceed to attend to other matters on his itinerary for the day.

Members of the Bar, ladies and gentlemen, before closing this opening address, it is important that I say something about the budget of the Judiciary. Over the years, beginning long before and after the civil war in this nation and until now, the budget of the Judiciary has remained very low compared to the other branches of Government. A budget is the sum of money allocated to an institution for a given period to cover the running cost of that institution. For our purpose a budget is the allocation made by the Legislature to the Judiciary for each fiscal year. That sum of money in our view, ought to be directly proportional to the running cost of the Judiciary. But this is not the case with the Judiciary.

The question we ask is, is the running cost of the Judiciary significantly lower than the other branches of Government as the National Budget seems to reflect? We do not think so.

The Judiciary is a co-equal branch of the Liberian Government comprising the Supreme Court and subordinate courts. There is a judicial circuit in all 15 counties. The First Judicial Circuit, Criminal Assizes "A" in Montserrado County is divided into 5 parts: Criminal Courts A, B, C, D and E. There are specialized courts: The Probate Court, Debt Court, Labor Court, Tax Court, Juvenile Court, Traffic Court and Magistrate Courts all operating under the Judiciary. And then there is the relatively new Commercial Court. As we have noted, the Act Creating Criminal Court "E" also establishes in each county of the Republic of Liberia, a separate and special division of the circuit court to handle sexual offence cases. The Judiciary is therefore present in all parts of the country, especially through the magistrate courts. There are several magisterial districts in a county, and new ones are being created by law from time to time as the need arises to provide access to justice. I have highlighted the operational structure of the Judiciary to accentuate the point that the activities in this Branch

of Government are quite enormous and the need to reform so critical such that appropriate budgetary allocations are required.

I should acknowledge that since the inauguration of the administration of President Ellen Johnson Sirleaf, the budget of the Judiciary has steadily increased, even though not at the same pace and level of the other branches of Government.

Last year, the budget of the Judiciary was 19,576,000.00. For fiscal year 2015/2016 we presented a budget of 26,687,889.00. The accompanying budget notes clearly explained reasons for the increment. We had meetings with some key members of the Legislature, followed by the appearance of the Court Administrator before the Budget Committee of the Legislature during which justifications were provided that additional funds were required to implement the amendment in the jury law and the law expanding the jurisdiction of magistrate courts throughout the country. These laws were passed by the National Legislature, approved by the President, and printed into Hand Bills on May 22, 2013. When laws are amended, the amended provisions cease to exist and the new ones take immediate effect upon being printed into Hand Bills. The new jury law states on its face that "The Central Office of Jury Management is an entity of the Judiciary," while the law expanding the jurisdiction of the magistrate courts throughout the country require concrete actions on the part of the Judiciary to ensure that it is implemented to the letter. The predicament the Judiciary now faces as the implementer and end user of the new laws is that no funds were allocated for implementation. This is why we requested the additional funds.

We further requested additional funds to increase the salaries/benefits of circuit and specialized court judges. Circuit court judges are on the same ranking with deputy ministers; since the Government had increased the salaries /benefits of deputy ministers, it was only proper that the judges be included under the scheme to reflect uniformity in the decision of Government regarding remuneration. These requests, we believe, are not unreasonable.

But surprisingly, not only were our requests for additional funds for the good and sufficient reasons stated above not considered, but the budget of the Judiciary was actually reduced. From US\$19,576,000.00 provided in 2014/2015 budget year, we received US\$18,618,722.00 for fiscal year 2015. We are currently engaging the relevant authorities, both in the Legislative and Executive Branches of Government, in an attempt to address this serious situation.

We believe that it was in recognition of the difficulties experienced by the Judiciary over the years due to the low budgetary allocations, coupled with the bureaucracies involved in accessing even the meager funds allocated that the Legislature passed, in 2006, what is now called the Financial Autonomy Act. Section 1 of the Act provides:

"1. Judiciary Budget: The Supreme Court shall submit to the Bureau of the Budget annual estimates of the expenditure and appropriations, supplies and services including personnel, as well as funds necessary for the maintenance and operation of the courts and such supplemental and deficiency estimates as may be required from time to time for the same purpose, according to law. All such estimates shall be included in the National Budget estimates without revision, but subject to any recommendation of the Bureau of the Budget which may be included with the transmittal of the National Budget estimates from the President to the Legislature for action thereon."

The clear language of the Act is that the budget of the Judiciary, as prepared and presented by the Judiciary should not be altered by the Bureau of the Budget; it should be submitted to the National Legislature as received from the Judiciary, with recommendation, if any, from the Bureau of the Budget, through the office of the President of Liberia. It is only the National Legislature that can act in respect of the budget of the Judiciary. Henceforth, we shall not hesitate to ensure strict compliance with the Financial Autonomy Act of the Judiciary.

Members of the Bar, ladies and gentlemen, the Judiciary, as we have said time and time again, is the cornerstone and foundation of a nation. It is the anchor that firmly holds democracy in place with all its attending attributes. The Judiciary should therefore be strong, if the nation and its democratic tenets must remain strong. This means that the Judiciary should receive full and adequate support, primarily from the national Government. For what it is and what it stands for, and in order to preserve its dignity and independence, the Judiciary cannot afford to rely much on external assistance. A weak judiciary is a threat to peace and democracy. We therefore implore policy makers to hear us now and grant full support to the Judiciary.

May God continue to bless this Court and save our country.

I THANK YOU.