

**OPENING ADDRESS OF HIS HONOR FRANCIS S. KORKPOR, SR.
CHIEF JUSTICE, SUPREME COURT OF LIBERIA
OCTOBER 10, 2016**

Mr. Vice President;

Mr. Speaker & Members of the House of Representatives;

Justices of the Supreme Court Bench;

Former Chief Justices & Associate Justices of the Supreme Court;

Mr.SRSG and Members of United Nations Mission in Liberia;

The Doyen & Other Members of the Diplomatic Corps;

Mr. Minister of Justice/Attorney General & Dean of the Supreme Court Bar;

Circuit & Specialized Court Judges;

The President & Members of the Liberian National Bar Association;

The President & Members of the Association of Female Lawyers;

The President & Members of the Association of Public Defenders;

Staff of the Judiciary;

Members of the Press;

Distinguished Ladies & Gentlemen:

It is always my pleasure, on behalf of my Colleagues of the Supreme Court and the entire Judiciary, to welcome you to the opening ceremony of a term of the Supreme Court. Just over two weeks ago, we adjourned *sine dine*, the March term of this Court and today we are

opening to commence proceedings for the October term. Hardly any respite. Nonetheless, we are happy to be back and we thank God Almighty for life and good health. Let me welcome back our Colleague, Madam Justice Jamesetta H. Wolokolie, who travelled abroad for a brief while. Mr. Justice Philip A.Z. Banks, III, who also travelled abroad, has informed me that due to unavoidable circumstances, he cannot be here today for this opening program. He has however indicated that he will return to the Country over the ensuing weekend.

We formally congratulate Counsellor Frederick D. Cherue on his appointment as Minister of Justice & Attorney General of the Republic of Liberia. In this capacity, he is Dean of the Supreme Court Bar. Counsellor Cherue is no stranger to the Judiciary. He is a seasoned legal practitioner and a former President of the Liberian National Bar Association. We look forward to a close working relationship with him. Under the same breathe, we extend condolences to him and his family for the recent passing of his daughter, Frederica Cherue.

The March term was quite challenging. However, we heard and decided a total of 34 cases. Amongst them were high profile cases which required very special attention. This is indeed a commendable effort. But viewed against the backdrop of the incessant overcrowded docket of this Court, the cases decided were just “drops in the bucket”. The main reason for the overcrowded docket of the Supreme Court, we have determined, is the requirement that the Court hears and decides all cases on appeal.

Article 20 (b) of the Constitution of Liberia (1986) provides:

“The right of an appeal from a judgment, decree, decision or ruling of any court or administrative board or agency, except the Supreme Court, shall be held inviolable...”

Article 66 of the same Constitution provides:

“The Supreme Court shall be the final arbiter of constitutional issues and shall exercise final appellate jurisdiction in all cases whether emanating from courts of record, courts not of record, administrative agencies, autonomous agencies or any other authority, both as to law and fact except cases involving ambassadors, ministers, or cases in which a county is a party. In all such cases, the Supreme Court shall exercise original jurisdiction. The Legislature shall make no law nor create any exceptions as would deprive the Supreme Court of any of the powers granted herein.”

As seen from the quoted constitutional provisions, it is clear that once a party has perfected an appeal from a subordinate judicial tribunal to the Supreme Court, that appeal, as a matter of right, must be reviewed and passed upon, most often, through the delivery of an opinion. To conclude an opinion, especially in a high profile matter requires an exhaustive undertaking to ensure quality and justice. It is therefore highly improbable that the docket of this Court will be exhausted in any given term time if the requirement that all appeals be passed upon by the Supreme Court remains in place and with the Court’s present composition of five Justices.

From the time of our independence in 1847, until today, the constitutional requirement that one Chief Justice and four Associate Justices preside over the Supreme Court has remained in place. The 1986 Constitution contains the very same requirement. But I submit that from 1847 to present, a whole lot has changed in our country. The population of the country has tripled or quadrupled which translates into more party litigants in courts. The political subdivisions known as counties increased from three to four in 1857, when Maryland became a part of Liberia. Later in 1964, during the administration of President William V.S. Tubman, five new Counties were created bringing the number to nine. Today, we have a total of fifteen Counties. And since the law requires that a circuit be established in each county, we now have more circuit courts along with specialized courts and

magistrate courts. In Montserrado County, we have established the Commercial Court and Criminal Court “E”. Further, and arguably this is the most contributing factor, the horizons of the Liberian people have changed; they are now, more than ever, conscious of their rights and would quickly resort to the courts for redress. This means more cases in courts and correspondently, more appeals before this Court. Yet, the requirement that all appeals be passed upon by the Supreme Court remains unchanged.

In our view, the time is now that we find a permanent solution to the perennial problem of overcrowded docket of this Court. In time past, this important issue had been discussed at so many forums—National Judicial Conferences, Criminal Justice Workshops and Conventions of the Liberian National Bar Association, etc., at which time some concrete proposals and recommendations were made. There are those who hold the view that the number of Justices on the Supreme Court Bench should be increased. However, the overwhelming view appears to be that the solution lies in the creation of appellate courts to deal with appeals of general nature so that the Supreme Court can hear and decide appeals mainly in constitutional matters.

Mr. Justice Kabineh M. Ja’neh, speaking at a Law Day Program held on May 6, 2016, at the Banquet Hall of the Temple of Justice highlighted the need for the creation of intermediary appellate courts in Liberia to address “the increasing caseload before the Supreme Court for appellate review.” We are happy that the recent statement by Justice Ja’neh has engendered renewed interest. Since then, the Liberian National Bar Association has had discussions on this important issue at two successive Conventions held in Bopolu, Gbarpolu County and Kakata, Margibi County respectively. I am informed that growing out of those discussions, a committee headed by Counsellor David A.B. Jallah, former Dean of the Louis Arthur Grimes School of Law, has been set up to draft an “Appellate Court Act” for review by stakeholders before submission to the National Legislature. This process is necessary since law is a “communal compact” which must be accepted by the people. We

wish to thank Counsellor G. Moses Paegar, President of the Liberian National Bar Association and other Officers and Members of the Bar for their leadership thus far on this matter. We hope that this time around, the process will continue until a real solution is found to this aged old problem.

Members of the Bar, distinguished ladies and gentlemen, on July 1, 2016, we witnessed a monumental transition in our country of the handover of security by the United Nations Mission in Liberia (UNMIL) to our own security forces at the Monrovia City Hall. More than a decade ago, the comity of nations, acting through the United Nations, concerned about the precarious plight of Liberians emerging from a prolonged civil war, deployed in this country, one of the largest peace keeping missions ever commissioned by the United Nations in the world. The civil war had a devastating effect on our country; every segment was affected and so many of our compatriots lost their lives. So, when the war ceased it became imperative first and foremost, that the warring factions remain disengaged to allow Liberians rebuild their lives. This was the prime objective of the world body in sending the UN Mission to this country.

The original mandates given to the UN Mission in Liberia were:

- a) To protect the civilian population;
- b) To provide humanitarian support;
- c) To assist in reforming the justice and security institutions;
- d) To monitor and carry out human rights promotion and protection; and
- e) To protect UN personnel, installations and equipment.

There can be no denial that the Mission has performed very well its mandates. In fact, there were times that the Mission, in our view, went the extra mile beyond the call of duty. Through the support and assistance of UNMIL, many of our institutions destroyed during the war years have been repaired and strengthened. Two successive Presidential and General

Elections have been conducted under the watch of UNMIL. In 2014, a Special Senatorial Election was conducted, again under the watch of UNMIL. The Special Senatorial Elections, we should note, took place during the time of the deadly Ebola virus. And even though UNMIL's mandate to protect civilian population did not envision protection against a killer disease like Ebola, the Mission remained here and stood firm with us in the fight against the scourge.

With UNMIL's presence and support, we have overcome many other daunting challenges and consolidated much progress towards peace; we have focused on the road to achieving true democratic governance. As a result, Liberia today, is considered an example of a success story of a nation coming from war. We in the Judiciary can particularly attest to the Mission's support in our quest in reforming the justice and security sector. Along with other justice and security actors we have worked with UNMIL at a broader level through a sector approach which has proved very effective in addressing many challenges. The Regional Security Hub is one classic example.

Specifically regarding rule of law vis-à-vis the Judiciary, UNMIL, through its Quick Impact Program, has over the years, renovated and/or constructed many court houses, especially magistrate courts throughout the country that were destroyed during the civil war. As a result, we can today boast of many improved court facilities for the effective adjudication of disputes. We have received support and cooperation from UNMIL in other areas such as: the Public Defense Program under the Judiciary which provides legal services to indigent criminal defendants; the Magistrate Sitting Program at the Monrovia Central Prison which ensures speedy trial for those in prison awaiting trial on writs issued out of magistrate courts; monitoring and reporting on pre-trial detainees; seconding experts to revise our Rules of Courts; and training judicial personnel at the James A.A. Pierre Judicial Institute, amongst others. We applaud the Mission for its good works in rebuilding and enhancing the

capacities of our security forces- the Liberian Army, the Liberian National Police, the Bureau of Immigration & Naturalization, the Drug Enforcement Agency and the Bureau of Corrections, etc. As the Mission draws down, and hands security responsibility to Liberian security forces, we urge our security institutions to now demonstrate that indeed we can depend on them for the protection of our nation state, its citizens and foreign nationals residing within our borders.

In 2017, we will have another Presidential and General Elections. Those elections will be very critical to the maintenance and survival of our fledgling democracy. It is therefore important that an enabling environment be created for the smooth conduct of the elections. The gains towards peace and democracy we have together made over the years, with the help of UNMIL and many friendly nations must be jealously guided and preserved. We in the Judiciary are ever mindful that the greatest security a nation can have for lasting peace is the presence of the rule of law. As our country takes on the onerous task of self-security, our laws must be used to safeguard the nation, its people and foreign nationals alike. This is not only necessary to ensure peace, but also to invite the trust and confidence of genuine business investors into our economy. We therefore pledge our continued commitment to ensuring the proper and timely application of the rule of law. Towards this end, my Colleagues and I have decided and resolved not to take any vacation beginning the March, 2017 term of this Court until the Presidential and General Elections in 2017 are held and a new administration is inaugurated. The intent is for the Full Court to be available at all times during the campaign period and during the conduct of the elections to ensure that all elections and related matters are promptly heard and decided in keeping with law. In furtherance of this, we have had discussions with the Chairman and Commissioners of the National Elections Commissions to explore ways and means for election cases to be expeditiously heard and decided. We thank Dr. Amos C. Sawyer and the other members of the Governance Commission for their involvement and support in this respect.

Members of the Bar, ladies and gentlemen, since our incumbency, we have steadily taken steps, as resources became available, to reinforce and/or establish essential organs of the Judiciary for the effective administration of justice. In this regards, the office of Court Administrator, which is an extension of the Chief Justice's Office, along with new components parts of that office such as the Project Unit and the Court Inspectorate Unit is fully operating, much to our satisfaction.

Today, we are pleased to inform you that we have employed the services of veteran journalist Darryl Ambrose Nmah to head our Public Affairs Unit. Mr. Nmah formerly served as Director General for the Liberian Broadcasting System. He replaces the late Singbe F. Johnson. The Public Affairs Unit will coordinate all media activities of the Judiciary and provide vital information to the public on the inner workings of the Judiciary. Without offending or jeopardizing the interest of parties before the courts, the Unit will, from time to time, liaise with Justices and Judges in order to release accurate information on proceedings before the courts. We urge all journalists and other media practitioners to take due note to avoid any other and further inaccurate or speculative reporting about the Judiciary which we have experienced in the past.

In a related development, the website of the Judiciary www.judiciary.gov.lr which was established some years ago has now been fully revised for operation and will now be launched. All pertinent information about the Judiciary, including opinions delivered by the Supreme Court will be posted on our website. The Public Affairs Unit will liaise with the Law Reform Commission (LRC) and the Liberia Legal Information Institute (LiberLII) for publication of our opinions in this regard.

During the period in review, USAID/LPAC (Liberia Professional Development & Anti-Corruption Project) signed a Memorandum of Cooperation with the James A.A. Pierre Judicial Institute (JI) to provide financial assistance and organizational development assistance to the JI including support to the Professional Magistrates Training Program (PMTP); the Quarterly Training Program of Trial Judges; the Quarterly Training Program for Public Defenders and the Court Clerks Training Program. USAID/LPAC will also support the Office of the Court Administrator to develop and operationalize the concept of advancing court management in Liberia and to address all aspects of court management including human resources management, performance management and leadership and strategic planning as part of judicial reform efforts aimed at increasing access to justice and rule of law. The project which has a duration of five years commenced mid-2015, and will run through 2020.

The International Development Law Organization (IDLO) supported by the US State Department is currently working with the Judiciary at Criminal Court “E” and in the Office of the Court Administrator. At Criminal Court “E,” where sexual gender based violent cases are handled, IDLO’s focus is to assist the Court maximize efficiency in its operating procedures for achieving transparent justice; while in the Office of the Court Administrator, IDLO provides mentoring support for jury management and court inspection.

The People’s Republic of China, under a bilateral agreement with the Republic of Liberia continues to provide scholarships to employees of the Judiciary as part of our human resource development program. In this connection two employees of the Judiciary, Yeaner L. Karter, Secretary in the Public Defense Office and Wadeh J. Wisner in the Information Technology Office were awarded scholarships to study Management & Science Engineering and Computer Science Technology, respectively in the People’s Republic of China for one year.

The National Association of Trial Judges (NATJ) has informed us that having applied to be a member of the International Association of Judges (IAJ) has been granted observer status for now. Full membership to the IAJ will afford the NATJ training opportunity and judicial networking amongst member states. Meanwhile, His Honor Roosevelt Z. Willie, President of the NATJ will attend the 59th Annual International Conference of the IAJ in Mexico City, Mexico, in October this year.

A three-man delegation comprising His Honor Yussif D. Kaba, Resident Circuit Judge, Civil Law Court, Counsellor T. Negbalee Warner, Dean of the Louis Arthur Grimes School of Law and Attorney Andrew N. Nimley, Jr., Administrative Assistant to the Chief Justice attended the inaugural assembly of West African Jurists in Abidjan, la Cote d'Ivoire, from April 14-16, 2016. The objective of the assembly was to review, debate, analyze and adopt the draft constitution that would give formation to an association that will reflect the lawyers' respective associations' roles at the level of the ECOWAS Court.

Meanwhile, Honorable Justice Jerome Traore, President of the ECOWAS Community Court of Justice has informed us that the ECOWAS Court, in execution of its 2017 Work Program, intends to hold an External Court Session in Monrovia from May 15-20, 2017, subject to the convenience of the Republic of Liberia. It should be noted that the Protocol of the ECOWAS Court allows the Court to sit outside its seat in Abuja, Nigeria, in the territory of another member state. In furtherance of this, the Court holds at least once a year, an External Court Session in the territory of any member state in order to give community citizens and members of the bar the opportunity of observing the Court in session and to bring justice to litigants at grassroots levels. The sitting also enables the Court to create awareness about its judicial mandate. We are liaising with the appropriate Government functionaries for the ECOWAS Court to sit in Monrovia, Liberia in May, 2017.

At the invitation of the Arab Republic of Egypt, Her Honor Eva Mappy Morgan, Chief Judge of the Commercial Court, and Her Honor Ciaeneh Clinton –Johnson of Criminal Court “E” attended the Egyptian African Judicial Cooperation Program for African Women Judges in the field of “Combatting Terrorism and International Crime from April 3-14, 2016, in Cairo, Egypt.

At the invitation of the Government of Israel, His Honor Chan-Chan Paegar, Judge of the Commercial Court, will attend a workshop on planning and developing curriculum for judicial training institutes in Tel Aviv, Israel in November, 2017.

We have nominated Her Honor Nancy Sammy, Resident Circuit Judge, 10th Judicial Circuit, Lofa County to attend an International Visitor Leadership Program (IVLP) on Elections from October 17-25, 2016, in the USA. The program which is sponsored by the US Embassy in Monrovia will afford participants a vision for peaceful elections and advocate for peaceful transition of power in January 2018.

At this juncture, we would like to thank all our partners in progress, institutions within the United Nations, friendly governments, non-governmental organizations, private volunteer organizations and all well-wishers for their continued cooperation with and support to the Judiciary.

Necrology

Members of the Bar, ladies and gentlemen, I regret at this time, to inform you of the passing of a number of dedicated members of the Judiciary during the period in review. They are:

LIST OF DECEASED EMPLOYEES

| <u>NAME</u> | <u>POSITION</u> | <u>ASSIGNMENT</u> | <u>DATE OF DEATH</u> |
|-------------------------------|-----------------|-----------------------|----------------------|
| 1. His Honor Richard K. Rufus | Judge | Traffic Ct., Lofa Co. | May 17, 2016 |

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| 2. | His Honor Roland Himmie | Asso. Magistrate | Garraway Mag. Ct. Maryland County | June 8, 2016 |
| 3. | His Honor Johnson Siekai | Asso. Magistrate | Kungma Mag. Ct. Sinoe County | August 20, 2016 |
| 4. | Nicodemus Saytue | Magisterial Clerk | Jarpuken Mag. Ct. Sinoe County | May 1, 2016 |
| 5. | Matthew K.R. Freeman | Clerk/Typist | Debt Court Montserrado Co. | April 13, 2016 |
| 6. | Francis Toe | Bailiff | Yanasue Mag. Ct. Sinoe County | May 21, 2016 |
| 7. | Morris Lumeh | Bailiff | Gardnersville Mag. Ct. Montserrado Co. | August 28, 2016 |
| 8. | Anthony Barjolue | Bailiff | West Point Mag. Ct. Montserrado County | May 30, 2016 |
| 9. | Wleh Nyenetu | Bailiff | Criminal Court 'B' Montserrado County | May 3, 2016 |
| 10. | Morris Sherman | Chauffer | Debt Court Montserrado County | March 23, 2016 |

We extend profound sympathy to the families and loved ones of these fallen judicial workers and pray that God will bless their souls. May they rest in peace and may light perpetual shine brightly on them.

And may God bless us all; bless the works of our hands and save the State.

I THANK YOU.

