

**OPENING ADDRESS OF HIS HONOR FRANCIS S. KORKPOR, SR., CHIEF JUSTICE
SUPREME COURT OF LIBERIA
MARCH 9, 2020**

Mr. President;

Mr. Speaker & Members of the House of Representatives;

Mr. President Pro Tempore & Members of the House of Senate;

Justices of the Supreme Court Bench;

Former Chief Justices & Associate Justices of the Supreme Court;

The Resident Coordinator & Staff of the United Nations in Liberia;

The Doyen & 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;

Madam Court Administrator & Staff of the Judiciary;

Members of the Press;

Distinguished Ladies & Gentlemen:

Once again, it is time, as dictated by law, to open this Court for the dispatch of business for the March Term, A.D. 2020. In my own name and on behalf of my esteemed Colleagues of the Supreme Court Bench, I welcome all of you to these opening ceremonies and extend to you hearty greetings and good wishes. We remain forever thankful to God Almighty for His continuous bountiful blessings on this Court. And we beseech His divine guidance and protection for our survival as a nation state.

We regret to inform you of the death of Counsellor M. Kron Yangbe, former Associate Justice of the Supreme Court; he died on December 30, 2019. Counsellor Yangbe made immense contributions to the Judiciary but most of all he will be remembered for his uncompromising stance to ensure judicial independence. We recall that when the Military Government interfered and set aside a decision of the Supreme Court in 1982, Counsellor Yangbe promptly resigned his position as an Associate Justice in protest.

We also lost Their Honors William B. Sando, Jr., Resident Circuit Judge, Eleventh Judicial Circuit, Bomi County, who died on October 28, 2019; and John E. Nenwon, Debt Court Judge, Nimba County, who died on October 19, 2019. These judges served the Judiciary diligently with honor and distinction until their demise.

Still further, we lost Counsellor Charles W. Brumskine, an astute and erudite lawyer who died on November 20, 2019. Although he did not take on a judicial post, his contribution to the Judiciary and the legal community in Liberia is immeasurable.

Other members of the Judiciary who passed during the period in review are:

<u>NAME</u>	<u>POSITION</u>	<u>DATE OF DEATH</u>	<u>ASSIGNMENT</u>
1. His Honor J. Richard Garlawolu	Traffic Court Judge	December 22, 2019	Bong County
2. Mohammed G. Fahnbulleh	Deputy Marshal	December 11, 2019	Grand Cape Mount Co.
3. Dunn Kie	Magistrate Clerk	December 15, 2019	Sinoe County
4. Adella K. Teah	Caretaker	December 18, 2019	Sinoe County
5. Samuel G. Bryant	Bailiff	February 10, 2019	Grand Bassa County

Kindly rise and observe a moment of silence in their honor.

We extend profound sympathy to the families of these dedicated and committed Liberians who served their country so well and pray that God will pardon them of their inequities and grant unto them eternal rest. Though they have ceased to exist in flesh, they leave memories that time and eternity can never efface.

On a pleasant note, we are pleased to report that during the period of our last adjournment, the President of Liberia, His Excellency George Manneh Weah, after confirmation by the Liberian Senate, appointed Magistrate, J. Kennedy Peabody and Counsellor Othello S. Payman as Resident Circuit Judge, Sixth Judicial Circuit, Civil Law Court, Montserrado County and Associate Judge, Commercial Court, Montserrado County respectively. Judge Peabody replaces our distinguished Colleague, Mr. Justice Yussif D. Kaba who was elevated from that position to this Bench, while Judge Payman replaces former Judge Richard Klah who resigned his post.

Also appointed by the President during the same time were Magistrate George C. Katakpah and Counsellor Hector W. Quoiguah as Judges of the Sexual Offences Courts, Criminal Court "E," Ninth Judicial Circuit, Bong County, and Criminal Court "E," Eight Judicial Circuit, Nimba County respectively. Their appointments are in line with the Act Establishing Criminal Court "E" within the judicial circuits throughout the country. The law and protocol require that the appointed judges be commissioned by the President and subsequently seated by the Chief Justice before they can assume their respective assignments. I have written a letter to the President requesting the early commissioning of the judges.

The National Association of Trial Judges of Liberia (NATJL), during the period under review, elected and installed its new corps of officers. We congratulate Her Honor Eva Mappy-Morgan, the new President and other officers of the Association. Judge Mappy-Morgan has informed me that the Association will work in tandem and close consultation with the Supreme

Court to initiate “self-regulatory mechanisms” in an attempt to curb unethical conducts of judges. This is a welcome idea, as fighting corruption and ethical misconduct in the Judiciary cannot be left to the Supreme Court alone. A conscious and willing involvement of all stakeholders, especially judges, will go a long way in creating the desired impact. We had excellent working relationship with the out-going President, Judge Roosevelt Z. Willie and other officers, and thank them for their exemplary leaderships. We assure the new leadership of the Association of our continued support and cooperation. We must warn, however, that in the context of Judicial Canon #7 Judges ought not to do politics. This warning comes against the backdrop of events leading to the conduct of the recent election of officers of the NATJL which ostensibly partook of campaign activities similar to what is done by politicians in national elections. There were campaign materials, including leaflets, posters and photographs of presidential candidates distributed in and outside of the premises of the Temple of Justice. It appears that there were press interviews granted, as a particular local daily referred to judges vying for positions in the Association as “rivalries.” One judge, a presidential candidate, even promised during debate, to ensure that there is maternity leave granted to female employees of the Judiciary if elected. This is an insinuation, which is far from the truth, that the Judiciary does not give maternity leave to its female employees. Of course, Judges are not rivalries; theirs is a relationship of camaraderie based on professionalism and devotion to duty. These creeping traits of partisan politics have no place in the Judiciary and must be avoided; otherwise the Association may fall prey to pettifoggers.

During the October Term, A.D. 2019, the Supreme Court heard the total of forty-one (41) cases and delivered Opinions and Judgments in thirty-one (31) of the cases. Advanced opinions will be delivered in the remaining ten (10) cases at the early part of this Term.

Subordinate courts throughout the country continue to execute their respective assignments. The returns of circuit courts for the last two terms show that there were a total of three hundred and ninety-seven (397) cases on the dockets of the circuit courts of the criminal division. Out

of this number, one hundred and forty-eight (148) cases were disposed of, five (5) cases were forwarded on appeal to the Supreme Court and two hundred and forty-four (244) cases are pending.

In the circuit courts of the civil division, there were five hundred and twelve (512) cases on the dockets for the last two terms. Three hundred and eight (308) cases were disposed of, fourteen (14) cases forwarded to the Supreme Court on appeal, while one hundred and eighty-nine (189) cases are pending.

In the Specialized Courts in all judicial circuits there were four hundred and eighteen (418) cases on the dockets for the last two terms. One hundred and seventy-five (175) cases were disposed of, five (5) forwarded on appeal to the Supreme Court, while two hundred and thirty-eight (238) cases are pending.

In the Magistrate Courts in various judicial circuits, there were three thousand, three hundred and thirteen (3,313) cases on the dockets, of which two thousand two hundred and thirty (2,230) cases were disposed of, one hundred and twenty-three (123) cases were transferred on appeal to various circuit courts and nine hundred and fifty-seven (957) cases are pending.

The Magistrate Sitting Program established to curb the problem of prolonged detention without trial at the Monrovia Central Prison (MCP) reported ninety (90) cases on the docket; of this number, eighty (80) cases were disposed of, one (1) was remanded and nine (9) cases were transferred to the appropriate circuit courts for adjudication. Notwithstanding, current report indicates that the number of pre-trial detainees at the Monrovia Central Prison is still high. This is alarming, especially during this time of the outbreak of the Coronavirus worldwide. As was done during the Ebola outbreak in 2014, we hereby direct all judges, especially magistrates to exercise the available discretionary powers under *Sections 10.2 and 13.5 of the Criminal Procedure Law* which provide options to arrest and detention. Even where it is mandatory that a defendant be committed to jail as in a case involving a non-bailable

offense, under no circumstance should a person infected or suspected of being infected with the coronavirus be committed to jail. Instead, arrangements should be made with the involvement of the Ministry of Justice to refer such a person to health authorities for testing and/or treatment.

The following reform and capacity building activities were undertaken during the period in review:

1. The Swedish Government, through UNDP, committed funding to operationalize two Sexual Offences Courts, Criminal Court “E,” one in the Eight Judicial Circuit, Nimba County, and the other in the Ninth Judicial Circuit, Bong County. Under the arrangement, facilities of the two courts will be renovated and refurbished and salaries for the judges and support staff will be paid for the period of six months. In the interim, we will request the Government to make appropriation for the courts. We thank the Government and people of Sweden for their continuous support to the Judiciary.
2. The Legal Professional Development and Anti-Corruption Program (LPAC) with support from the United States Agency for International Development (USAID) provided financial and technical support for the reproduction of five hundred (500) copies of the revised version of the Compilation of Relevant Liberian Laws by the James A. A. Pierre Judicial Institute (JI). The materials were distributed to Judges, Public Defenders, Magistrates and students of the ongoing Professional Magistrate Training Program, Cycle IV. We thank USAID and LPAC for their support.
3. I participated in the Conference of Chief Justices of ECOWAS organized by the ECOWAS Community Court of Justice in Accra, Ghana, from October 21-24, 2019 under the Theme: Economic Integration of West Africa, Challenges and Prospects.

The Conference brought together Chief Justices of ECOWAS member states, astute jurists from the region and the Secretariat of ECOWAS.

4. Mr. Justice Yussif D. Kaba, Associate Justice of the Supreme Court, and His Honor Scheaplor R. Dunbar, Relieving Judge, participated in a Judicial Training Workshop for Effective Implementation of Global, Regional and Sub-Regional Human Rights Norms in Anglophone West Africa held in Freetown, Sierra Leone from December 3-4, 2019. The workshop was sponsored by the International Commission of Jurists (ICJ) in collaboration with the Sierra Leonean Judiciary.
5. The African Bar Association (AFBA), in collaboration with the Liberian National Bar Association (LNBA) conducted a Training Workshop on Compliance with Human Rights and International Obligations by Armed Forces and Security Agencies in Africa in Monrovia from October 21-23, 2019, under the theme: “Rules of Engagement in Asymmetric Warfare and Security Operations: Need for Compliance with International Laws.” The Training Workshop brought together jurists and legal practitioners from around the African Continent. Upon our directive, courts were suspended in Montserrado County to allow all judges and lawyers to fully participate in the Training Workshop. We thank the Liberian Bar Association for the able manner in which it coordinated the conduct of the Training Workshop.
6. The United Nations Office on Drug and Crime (UNODC) conducted two training workshops on the theme: The Legal Framework for the Investigations and Prosecutions of Transnational Organized Crimes and Judicial Responses to Serious Organized Crimes in Monrovia from February 17-22, 2020. The objective was to enhance the capacity of Liberian institutions, including the Judiciary, in successfully prosecuting and convicting transnational organized crimes involving illicit drug

trafficking and other organized crimes. Magistrates James F. Dudu, Lawrence Jackson, William G. Saygah, and Lavela Ben Barco attended the workshop.

7. The James A. A. Pierre Judicial Institute (JI), with support from USAID/LPAC and UN Women, conducted series of trainings at different intervals for Judges, Magistrates and Public Defenders. The trainings were intended to improve the skills of the participants in the expeditious and easy delivery of justice in their respective duties.
8. The Judicial Complex housing the 7th Judicial Circuit Court, Grand Gedeh County, was completed more than six months ago but has not been dedicated due to bad road condition. The Complex is expected to be dedicated during the ensuing visit of President Weah to Grand Gedeh County in April this year.

Members of the Bar, distinguished ladies and gentlemen, before closing this Opening Address, I have deemed it expedient to repeat and reiterate what I said in my Opening Address on March 13, 2017, regarding the prevalence of unlawful sale of land by some unscrupulous people in our country. From all indications, the situation is even more pervasive today, particularly in urban areas. Under Liberian Law, title to land can only be conveyed by the lawful owner. Liberian law also forbids the selling of a parcel of land to more than one person or entity. Despite these clear and unambiguous provisions of our law, criminal conveyance of land is at alarming proportions in our society today such that if decisive actions are not taken now, it may undermine peace and national security. The right to own property is sacrosanct; it is a right equated by the Liberian Constitution, with the right to life. Article 20(a) of our Constitution (1986) provides:

“No person shall be deprived of life, liberty, security of the person, property, privilege or any other right except as the outcome of a hearing judgment consistent with the provisions laid down in this Constitution and in accordance with due process of law.”

Consistent with this constitutional safeguard to real property right, this Court has always taken step(s) to protect the property rights of our citizens and warned our trial judges to handle property matters with the outmost care and diligence, giving all party litigants every opportunity to appear and defend their property rights. In the case: *Sarah C. Kennedy and Catherine Johnson-Whisnant v. Ishmael B. Goodrige and Hilton*, 33 LLR 398 (1985), this is what this Court said:

“Questions of property, especially real property, and human life are to be handled with every available care by our courts. If you deprive a man of his life, you deprive him of further existence on earth; if you deprive him of his real property unjustifiably, you deprive him of a basic means of existence that is seriously difficult for one to obtain in our time, and which stands to be more difficult to obtain in the years ahead. Our warning requires that our judges afford all parties who stand to lose life and/or property every chance and patience to appear and to defend their cause according to the means accorded them by law, and under no circumstances should it be maintained otherwise.”

As far back as 1949, more than seventy (70) years ago, when the 1847 Constitution of Liberia was still in force and effect, this Court said in the case: *Karnga v. Williams et al.*, 10 LLR 114 (1949), that the Constitution of the Republic guarantees to each citizen the right to the acquisition, protection, and defense of property. The legal procedure to contest this right should be meticulously and jealously guarded, and for that reason this Court has said that where a defendant in a real property case is returned summoned but fails or refuses to appear, the plaintiff is not thereby, as in other cases, immediately entitled to a judgment by default. This underscores the importance of property to our individual liberty, and in fact to our very existence. It goes to show that questions involving ownership to property, like questions of life, must be treated with due care to ensure that every opportunity is afforded party litigants to appear and to freely defend before decisions can be taken by the court.

By these holdings, this Court recognizes that real property is indispensable to the existence, dignity and liberty of every citizen of this nation.

But the efforts by this Court and the trial courts to protect property rights are being seriously undermined and rendered futile by the illegal sale and/or occupation of land by unscrupulous citizens, which act, in a number of cases, have resulted into violence and even death. *Republic of Liberia vs. Roland Kaine* is a case in point. Examples of the illegal sale and occupation of private lands in Montserrado County abound and are causing untold problems for our trial judges as they attempt to uphold and ensure the rights of lawful land owners by repossessing them.

Reports from the Civil Law Court, 6th Judicial Circuit, Montserrado County, indicate that writs of injunction intended to keep property cases in *status quo* until trial is concluded are often flagrantly violated and in some cases where a land case has finally been concluded by the Supreme Court after several years of painstaking litigation, and the Civil Law Court is ordered to execute the mandate of the Supreme Court by repossessing a successful land owner, the party defendant, and even others who are not parties to the case, most often put up violent resistance in an attempt to prevent the lawful execution of the mandate of this Court. This trend cannot continue! If this is allowed unabated and with impunity, the net effect would be to circumvent the law, deny justice and have illegal property claimants prevail against the rightful owners. No civilized and lawful society can condone such act.

We have heard in some quarters that because our society is still fragile from war it is better to take it easy and not disturb “a sleeping lion.” This, in my view, is not a wise proposition, because the trouble with a lion asleep is that it is likely to wake up at the most inappropriate time, hungry, vicious, and ready to devour. The contention that altercations might ensue with propensity to disturb the public peace, and therefore a lawful order of court should not be executed is absurd and without legal merits and defeats the spirit and intent of the law. As we

have said from time to time, the best security a nation can have is the strong presence of the rule of law applicable to all.

We therefore call upon the three Branches of our Government to use their best efforts in tackling the problem of illegal sale and occupation of private property in a concerted way before it gets out of hand.

1). The Legislative Branch of Government, the people's representatives, should liaise with their constituents in the counties and various communities and impress upon them to refrain from the illegal sale and/or occupation of private land and the danger posed by such practice to the peace, safety and security of our nation. Areas of the law shown to be weak in this regard must be identified and strengthened by appropriate amendment and/or new legislation;

2). The Executive Branch of Government, through the newly established Liberian Land Authority, should educate and sensitize all citizens on the danger of illegal sale and/or occupation of private land and the consequences thereof; the Ministry of Justice should arrest and prosecute recalcitrant and illegal land sellers and assist the Judiciary in enforcing court orders, including judgments, survey orders, injunctions, etc.; and

3). The Judiciary must continue to fairly and expeditiously adjudicate property cases without fear or favor, to protect the right of every citizen to own and dispose of real property in this nation.

We further call upon all politicians, opinion leaders, traditional leaders, chiefs and everyone with authority who can influence the conduct and behavior of others to prevail on those who are illegally selling and/or occupying lands that belong to other citizens of this nation to desist forthwith, or face all the consequences provided for under the law.

Let me conclude by advising Counsellors whose clients have cases on the Docket of the Supreme Court for this Term to make early request for the hearing of their cases.

May God Almighty bless us all; bless the works of our hands and save our Country, Liberia.

By the power vested in me, I now declare this Court duly opened for business in its March, A.D. 2020 Term.

I THANK YOU!