

OPENING OF THE 2024 LEGAL YEAR
STATEMENT BY HON. JUSTICE
HASSAN B. JALLOW-CRG, CHIEF JUSTICE
21st JANUARY, 2024

Your Excellency the Vice President, Mr. Muhammad B.S

Jallow

Hon. Deputy Speaker of the National Assembly, Hon.

Seedy Njie

Hon. Judges of the Superior Courts

Hon. Attorney General and Minister of Justice

Hon. Ministers

Hon. Mayor of the City of Banjul Madam Rohey Lowe

Your Worships Magistrates and Cadis

Your Excellencies Members of the Diplomatic Corps

President of the Gambia Bar and Members of the Bar

Director General, Gambia Law School

Regional Governors, Presidents and Members of the

District Tribunals

Venerable Religious Leaders

**Members of Staff of the Judiciary and of the Attorney
General's Chambers**

Distinguished Guests

I am pleased, on behalf of the Judiciary and indeed on behalf of the entire legal profession, to welcome Your Excellency the Vice President deputising for Mr. Adama Barrow President of the Republic of the Gambia and all our distinguished guests to this ceremony marking the Opening of the 2024 Legal Year.

A special welcome is extended to the delegation from the United Kingdom Judicial College and the Commonwealth Magistrates and Judges Association, the USAID team led by the ABA representative Mr. Elysee Sindayigaya, the representatives respectively of the European Union (E.U), of the United Nations system and of the International Development Law Organization (IDLO) which have all been among our

very active collaborators in the execution of the Judiciary Strategic Plan and generally on improving the administration of Justice. We are also honoured by the presence today of a Special Guest in the person of Professor Dr. Mohammed Ayat from the Kingdom of Morocco, distinguished jurist, scholar and former Chairman and now a member of the U.N Committee on Enforced Disappearances, Prof. Ayat will be delivering a public lecture as part of the activities this year on securing accountability for enforced disappearances, a matter of concern here as we all engage in the implementation of the recommendations of the Truth Reconciliation and Reparations Commission (TRRC).

This ceremony which, since its institution in 1982 has been regularly held in the First Republic, observed intermittently during the Second Republic and restored to its glory during the Third Republic, provides us with the opportunity to celebrate justice and the rule of law

in our community, reflect on the challenges in its application and together chart a way forward to address those challenges. It will kickstart a number of other activities in the course of the week. Amongst them the Call to the Bar of some Eighty-One (81) law students, Forty Four (44) of them Gambians who have completed the academic and vocational phases of their training respectively at University and at the Gambia Law school, the evaluation of the training programme for the Presidents, Members and Scribes of the District Tribunals, the launching and training of the members of the Association of Commissioners for Oaths and Notaries Public. In collaboration with the U.K Judicial College a training workshop will be organised for Judges and magistrates on cybercrimes, electronic evidence and on transnational crime as well as workshops for Magistrates on Judgment writing, effective management of criminal cases and on the

implementation of the sentencing guidelines with particular reference to rape and other sexual offences. A Bench- Bar dialogue is also scheduled to provide a forum for the two important stakeholders in the administration of justice to come together and examine ways in which the obstacles to speedy and qualitative justice can be ameliorated or removed altogether. A very busy but hopefully very productive week thus lies ahead, to be capped by a social event jointly hosted by the Bench, the Public and the Private Bar. I wish to thank the Legal Year Committee, chaired by Hon. Justice E. Jaiteh, and whose membership comprised representatives from the Judiciary, Attorney General's Chambers, the Bar, and the Gambia Law School, for organizing the Opening of the Legal Year 2024 and activities marking its celebration.

Your Excellencies, distinguished guests the legal year 2023 which has just ended was indeed a very busy

one for the Judiciary. In the area of our core activity i.e. the hearing and determination of cases, the Judiciary started the 2023 legal year with a carry-over of 5810 cases from 2022. In 2023 a further 5639 cases were filed across all courts bringing our total case load in 2023 to 11,449 cases. In the course of 2023 a total of 5,273 cases i.e. 46% from this case load were disposed of. We have thus started 2024 with a load of 6176 cases. A very heavy workload indeed continues to lie ahead. I wish to thank all judicial officers, staff and counsel for their contribution in the management of this caseload. It is clear that we must deploy a combination of different but complimentary strategies for the speedier disposal of cases: provision of adequate human and other resources to the judiciary and to other critical stakeholders in the justice process to enable justice function efficiently; greater diligence by all stakeholders – judicial officers, lawyers litigants

etc. in the management of case; adoption of rules and practices that promote speedy and effective justice; above all greater exploration of out of court settlement of civil disputes and resort to litigation as a last resort. We have to explore and utilize all these strategies in order to attain the mission of the judiciary.

A number of other important activities planned for and goals set for 2023 were delivered or attained. Our efforts to improve the case management system received a welcome boost from the USAID/ABA Project for Promoting Rights & Justice (PRJ), with the submission of a project proposal for a digitized case management system which is currently under review. Similarly with the support of the PRJ Project a consultant has now submitted an interim report on the review of the rules of practice and procedure in the High Court with proposals for their reform in order to expedite the hearing and determination of cases. We

propose to finalise and implement both reports in the course of the new legal year as we expect them to result in significant improvements in the Judicial processes. The amendments to the High Court Rules providing for Court connected ADR and which require parties to civil disputes to explore out of court settlement prior to the institution of civil proceedings have now entered into force and are being implemented and enforced by the High Court. We expect that this will assist in avoiding unnecessary civil litigation or in narrowing the scope of litigation where such is inevitable. Some twenty legal practitioners have already been trained in 2023 on ADR. In the course of 2024 training and certification of additional mediators, conciliators and arbitrators will be delivered to support the ADR process. The draft Bill to establish the Gambia Judicial and Legal Training Institute has been validated and submitted to the Ministry of Justice for enactment

by the National Assembly. The Bill provides a legal framework for the judicial institute which has only thus far existed de facto. It also broadens the mandate of the institute to provide continuing legal education not only for judicial officers and judiciary staff but also for the rest of the legal and law enforcement cadre in the public service.

The District Tribunals training programme for the Presidents, the Members and Scribes of this very important tier of our Judicial system, which handles customary law matters and a significant number of local disputes, which was launched last year, has been successfully implemented in all the regions of the country. We expect to see as a result some qualitative improvements in the judicial work of the District Tribunals. This programme has also generated a review of the District Tribunal Act and system which is currently under way. We are grateful to the

International Development Law Organization (IDLO) for the funding and organization of the project and to the Ministry of Regional Government, Lands and Religious Affairs for their contribution to and support of the project.

The Judiciary Training Institute (JTI) also provided some input into the judiciary capacity building programme through the organisation of local training workshops on various subjects for various target groups within the judiciary. Amongst them training on judicial conduct and ethics for magistrates in collaboration with the CEELI institute and Gambia Participates, effective communication for Registrars, Assistant Registrars and Clerks, induction training for newly appointed Clerks and Process Servers and in collaboration with the UNESCO a workshop on international and regional standards on freedom of expression and the safety of journalists and also a

nation-wide training of clerks and Registrars in collaboration with the PRJ.

In the past year the capacity of the Bench of the Magistrates Court has also been strengthened with the recruitment by the Judicial Service Commission (JSC) of five new Magistrates of the First Class who, after appropriate induction training have now been deployed to various subordinate Courts. We are in the process of recruitment of additional Magistrates to fill some gaps in the rural subordinate courts particularly in the Central River Region (CRR) and the North Bank Region (NBR) in order to ensure full national coverage for the subordinate Courts and thus facilitate greater access to justice at that level country wide. A new Chief Magistrate in the person of H/W Pa Modou Njie has now taken up duties as well.

The capacity of the High Court Bench, the first tier of the Superior Courts, is also being strengthened with

the recruitment of additional Judges. Although three Judges, Justice B.A Bakre, Justice Osei Tutu and Justice Francis A. Achibonga on technical assistance respectively from Nigeria and Ghana left us in the course of the year, they have now been replaced by two Judges from Nigeria i.e. Justice Ayoola and Justice Owolabi and one Judge from Ghana i.e. Justice Kwabeng on technical assistance. This has enabled us to double the capacity of the High Court Bench for the West Coast Region to two Judges in Brikama to assist with the management of the very large workload from that region. A fourth Judge for the High Court is expected shortly on technical assistance from Ghana. We are indeed very grateful to Nigeria and Ghana for their continued support to the Judiciary of the Gambia. The evaluation of candidates by the Judicial Service Commission for the High Court Bench is expected to result shortly in the recruitment of a number of suitable

Gambians as Judges in order to strengthen the High Court's capacity. Similarly the Commission will also be submitting recommendations shortly for the filling of the sole vacancy on the Bench of the Supreme Court with the appointment of a new Justice.

Court administration has also seen some changes in the course of the year with the appointment of a new Judicial Secretary in the person of Abdou Conteh, (former Sheriff), the elevation of former Principal Magistrate Omar Jabang to the position of Sheriff and the appointment of a new head of the Judiciary ICT Unit in the person of Mr. Omar Jallow. The Registry, a crucial part of the case and court management system has also seen a number of staff changes with the appointments of new Registrars and Assistant Registrars who play a crucial role in the management of case dockets. Human Resources management has also benefitted from the strengthening of the Human

Resources Unit with additional officers. We once again welcome the new officers and congratulate the others on their elevation and count on them to make a positive impact on Court management, the enforcement and execution of Judgments and the implementation of the IT component of the Judiciary Strategic Plan (2021-2025).

Whilst recruitment and training for capacity building will continue to be a focus of the next year this will be supplemented by attention to improving the regulatory framework as well with inter alia the development and institution of a performance based appraisal and assessment system for Judicial as well as support staff and the development of appropriate human resource policies to promote greater staff efficiency and performance.

The 2023 legal year also witnessed three other major developments. With the assistance of the U.K.

Judicial College and the CMJA we developed and adopted Sentencing Guidelines for Magistrates on Rape, Assault, theft and offences allied to stealing which I have now issued for the guidance of the subordinate Courts. This should assist in having a more methodical objective and transparent approach to and the reduction or elimination of disparities in sentencing. The Sentencing Council under the leadership of the Hon. Justice M.M. Sey JSC is, with the support of the Judicial College and CMJA, preparing Sentencing Guidelines for other offences for the consideration of the Chief Justice. We wish to record our appreciation of the assistance of the Judicial College and the CMJA and the government of the United Kingdom for this important project as well as the work of the Sentencing Council and its leadership.

Members of staff – both judicial and support – have also benefitted from overseas training in various

jurisdictions with the sponsorship of the USAID, the EU, the UN system, and the Africa Judicial Exchange Network. We are grateful for this assistance. We are pleased to recognize also the indefatigable efforts of the very few staff of the JTI under the leadership of the Hon. Justice Awa Bah JSC for the delivery of numerous training programmes for staff in the course of the year.

Pursuant to Section 143 (1) of the Constitution and as undertaken last year, the Judiciary Prisons Visiting Committee has now been established under the leadership of the Hon. Justice A. Saho-Ceesay JCA with a mandate to undertake a six monthly inspection of the Prisons countrywide and report to the Chief Justice on the status of all remand prisoners. This will assist with the monitoring of the cases of prisoners in pretrial detention and with the more expeditious hearing and determination of their cases.

I have also issued on the 21st December 2023 a Direction pursuant to Sections 131(3) and 143(1) of the Constitution establishing a Special Criminal Division of the High Court with effect from the 26th of January 2024 – five days hence – for the hearing and determination of inter alia criminal matters arising from the implementation of the recommendations of the TRRC. This measure, together with those planned by the Executive and Legislative Branches of the State are designed to ensure a more efficient management of criminal cases generally and more particularly with accountability for the crimes identified by the TRRC for prosecution. We welcome and applaud the solidarity of the international community in securing accountability for this category of crimes with particular reference to the support of the ECOWAS, the European Union (EU) the U.N. system and individual countries such as the United States of America, Germany and Switzerland

which are making significant contributions to this process by undertaking at their own expense the local prosecution of some important cases of accused persons within their territorial jurisdiction. Success in the implementation of the accountability component of the TRRC recommendations will continue to require a multipronged approach of local prosecution in the Gambian Courts as well as prosecution outside the Gambia either by other States or hybrid or international jurisdictions. In furtherance of the Direction I shall shortly be assigning Judges to the Special Criminal Division. We wish to record our great appreciation to the government of His Majesty of the United Kingdom for agreeing to fund the remodeling, renovation, equipping and furnishing of one of the Judiciary's premises at Mile 7 Bakau to accommodate some of the facilities for the Special Criminal Division of the High Court.

Your Excellency, distinguished guests there have also been numerous challenges along the way: shortage of courtroom space continues to hamper the optimum use of the full complement of judicial officers -: It is not an easy situation – the workload is immense for the present number of judicial officers; we need more Judges and Magistrates to manage the workload efficiently; but we lack the courtroom space to accommodate and ensure the full operation of all the courts; additional and well equipped and furnished courtroom are thus critical. Monthly allocations of funds to the Judiciary continue to be consistently inadequate for our basic operations; judiciary support services such as interpretation and records preparation services which are critical for court proceedings require strengthening; lack of transportation for magistrates particularly in the Greater Banjul Area continues to hamper the efficiency of the subordinate courts. The

shortage and in most instances the lack of official vehicles, the use of unsuitable pool vehicles, the unavailability of government loans to judicial officers to purchase their vehicles and the security and ethical challenges faced by such Magistrates and Cadis in use of commercial vehicles all continue to seriously hamper the mobility and hence the effectiveness of the subordinate courts. We must admit too that in some instances the lack of due diligences by counsel – both of the private Bar and of the State Law Office as well as some judicial officers have also occasioned unnecessary and unacceptable delays in the hearing and determination of cases. And in some instances the discharge and or acquittal of accused persons for lack of diligent prosecution.

Your Excellency and distinguished guests the judiciary has committed itself to deploy greater efforts in the course of the 2024 legal year to the discharge of

its core mission to provide effective quality justice through the timely and efficient hearing and determination of cases. A two days Retreat for Judges held in November 2023 gave us the opportunity to review our working methods and practices and to identify what we as judicial officers can and should do to enable the judiciary discharge its mission. We have come away from the retreat with a deep commitment to ensure the hearing and determination of cases within a reasonable time, without undue delay; to exercise diligence and purpose; to be guided by the rights of litigants to have their matters determined within a reasonable time; to be guided by the constitutional encouragement to deliver judgments within three months of the last adjournment; to improve, as individual judicial officers, the management of our cases; above all to demonstrate the highest standards of honesty, integrity, impartiality,

fairness and independence in the discharge of our duties.

We shall in the course of the year be working on improving our systems for monitoring and ensuring the compliance of individual judicial officers with this commitment that we have undertaken. We recognise of course that judicial officers and staff are not the sole actors in the justice process and that the cooperation of other stakeholders such as the lawyers and litigants is crucial to the discharge of our mission. We look forward to the Bench Bar dialogue scheduled for next week to provide us and the Legal Practitioners with the chance to identify and commit ourselves to measures that will promote the attainment of our common mission.

We congratulate the new Executive of the Gambia Bar Association (GBA) under the leadership of learned senior counsel Neneh M.C. Cham and look forward to a productive collaboration with them. We thank the

immediate past GBA Executive under the leadership of learned senior counsel Saliou Taal for their management of the Bar and support for the Judiciary.

In the course of the 2024 legal year we look forward to the commencement of operations of the Special Criminal Division of the High Court and the establishment of a Commercial Division of the High Court in order to assist with the more expeditious determination of commercial disputes. Our capacity building efforts will be intensified through training of staff hopefully under the umbrella of the new Gambia Judicial and Legal Training Institute. The capacity of our language and record preparations sections will respectively be strengthened through recruitment of more interpreters and typists to support more effectively our language and record preparation services and thus the trial and appellate processes. We are committed to establishing in the course of the year

a new electronic case management system which will enable inter alia online filing and service of court processes and other documents as well as the payment of court fees and thus significantly improve on the current system. The review and reform of the rules of the High Court will continue and hopefully conclude with the adoption of new rules which will eliminate obstacles to speedy trial. We shall also be reviewing in the course of the year the rules of practice and procedure in the subordinate courts to the same ends. Internal governance will also be strengthened with policies and a new regulatory framework for more effective human resource management and dealing with public grievances and complaints.

Your Excellency and distinguished guests other areas which are beyond the means of the judiciary and which require the attention of the government and our development partners include funding for the

infrastructure component of the Judiciary Strategic Plan, more particularly the provision of more courtroom and office space; improving the transport fleet to provide better mobility for judicial officers and staff especially the magistrates and to support court operations. We continue to appeal for and look forward to greater public funding for these areas. As we also do for the digitization of the recording and transcription of court proceedings and the upkeep of our archives.

Your Excellency and distinguished guests we look forward to the enactment of the Judges Conditions of Service Bill in the course of the year. This is not only an overdue constitutional requirement but a means for ensuring security of tenure of Judges, the integrity of the Bench and a scheme for attracting and retaining suitable Gambians to the Bench. Its contents reflect standard practice in the commonwealth jurisdictions. We are encouraged by Your Excellency's assurances of

your government's commitment to see this legislative measures through and are indeed grateful for that commitment. The measures when enacted will significantly improve morale within the judiciary and make a positive impact on the national drive to Gambianise that institution.

Your Excellency and distinguished guests an efficient, independent and impartial judiciary is the bedrock for the rule of law and good governance and the most secure foundation for peace and progress. It is befitting that on an occasion such as today, the judiciary acknowledge with great appreciation His Excellency the President and his government's commitment to and respect for the independence of the judiciary and his continuous efforts to provide for the judiciary's needs. We nonetheless appeal to his Excellency and his government to continue to bear in mind that investment in the judiciary is an investment

in the rule of law, in justice and in laying strong foundations for national peace and progress. We seize the opportunity to congratulate his Excellency Mr. President on the well deserved award to him of the 2024 African Prize for Peace, an international recognition of his sterling qualities of leadership in justice, in promoting peace and progress in this country and beyond its frontiers.

It is now my honor to invite Your Excellency the Vice President of the Republic of the Gambia to address the gathering, declare the 2024 legal year open and handover certificates of appreciation from the Judiciary to thirty (30) retired staff of the Courts.

I thank you for your attention.