

# **SPEECH BY THE HON. CHIEF JUSTICE**

**ALI NAWAZ CHOWHAN**

**AL**

**BISMILLAH**

**HON. JUDGES OF THE SUPRIOR COURT, THE ATTORNEY GENERAL, THE JUDGES OF THE COURT OF APPEAL AND THE HIGH COURT, THE CHAIRMAN OF SHARIAH PANEL, LADIS AND GENTLEMEN MY BROTHERS AND SISTER.**

**ASLAM – O –ALAKUM**

**GOOD EVENING**

**“NULLI VENDEMUS NULLI NEGABIMUS**

**JUSTICIAM”**

**(WE NEITHER SELL, NOR DENY, NOR**

**DELAY TO ANY PERSON, EQUITY OR**

**JUSTICE**

**SPEECH FOR FRIDAY 6<sup>TH</sup> JUNE 2014**

**GEORGE JESSEH QUOTE SAYS:**

“The human brain starts working the moment you are born and never stops until you stand up to speak in public. This may be happening to me now.

“A lawyer was just waking up from anaesthesia after surgery, and his wife was sitting by his side. His eyes fluttered open and he said, “you’re beautiful!” and then he fell asleep again. His wife had never heard him say that so she stayed by his side.

A couple of minutes later, his eyes fluttered open he said, “you’re cute!” well, the wife was disappointed because instead of “beautiful,” it was “cute.” She asked, “what happened to ‘beautiful’?”

His reply was “The drugs are wearing off!”

In the Gambia we have the Common Law, the Customary law, the Shariah and ADR.

Regarding Common Law, I have a quote from Justice Frederick Pollock. “Our Lady the Common Law is a very old lady though; she still has something to learn in telling what she knows.

Shariah means a path taking you to clean water. The Shariah recognition Act of 1905 reminds us how old is this Path. But its remains clear as the Aqua Pura as we do not find enough jurisprudential development or a strong structure of the precedents settling for all times the issues of marriages, divorce and inheritance.

The Customary Laws and usages are unwritten and enshrined in the memory of the Chiefs. Alkalos, Seyfolou and families.

The African morning posts of Accra publish in September 11<sup>th</sup> 1937 remarked.

“With regard to a native Administration, the Country cannot be said to be abreast with time since its laws customs and usages still remain unwritten”.

“It is time therefore that we had a code composing native laws and customs relating to inheritance, marriage, enstoolment, birth and death rites that could be applicable to the states as a whole.

Some work was done by the Law Reform Commission of the Gambia in the nineties. But the statusquo goes prolongs.

The Judiciary is now endeavouring to collect material for the purpose of codification.

The ADR System is also creeping in the system by inches. We have to develop culture for its advancement for in expensive and informal justice.

The establishment - thought on modest basis - of the Judicial Training Institute for Cadis, Chiefs and the magistrates will fulfil the quest for capacity building, knowledge, Comparative study, Judgement writing skills and behavioural aspects.

We had useful training workshops here in Banjul and in the far areas for the native Chiefs.

Training programme are also being formulated for the Judiciary outside the Gambia. While we look to Scholars visiting us to train our people mainly the Cadis for making the Gambia famous for the best Maliki Cadis system.

Curative measures to enforce discipline at the level of the lower Courts and the administrative have remedied the situation considerably. The high Court Judges now supervise the Lower Courts and send reports in their performance. Which are studied here for further amelioration. My surprise visits are also helping. And we are trying to clear backlog of cases.

We have shortage of Judges and there is urgent need to elevate a few indigenously at the High Court. So that they advance upwards to fill the Court of Appeal and the Supreme Court. Some Judges of the Supreme Court will retire at superannuation age of 70 years. We will need their replacement and have to plan for it. Another alternative can be to change the age to 72 in the Constitution.

In the mean while we are thankful to our brothers from Sierra –Leone and Nigeria for their help. I dream of a full time Supreme Court of the Gambia and seek help and blessing of His Excellency the President, Shiekh Professor Alhaji Dr. Yahya A.J.J Jammeh in making this a reality. As has happened in the case of the Gambia University, the law college and other Institutions during his presidency.

Supreme Court Justice Oliver Wendell Holmes was travelling by train to Washington, DC, one Morning nearly a century ago when a conductor asked for his ticket. Holmes searched high and low for it until the conductor reassured him.

“Don’t worry about your ticket, Mr Holmes. We all know who you are. When you get to your destination, you can find it and just mail it to us”.

“My dear man, the problem is not my ticket”, quipped Holmes, who was renowned for his quick wit. “The problem is.... Where am I going?.

The answer reminds conscientious Judges every time a Judgement is written. This is how we keep our selves loyal to the Constitution and the laws.

God bless you all.