



**REMARKS BY MR. HALAKHE D. WAQO,
SECRETARY/CHIEF EXECUTIVE OFFICER OF THE ETHICS
AND ANTI-CORRUPTION COMMISSION**

**During the launch of the Anti-Corruption and Economic Crimes
Division of the High Court and Practice Directions**

Ceremonial Hall, Milimani Law Courts, Nairobi

15th December 2016

- **Honourable Chief Justice, and President of the Supreme Court;
Hon. Mr. Justice David Maraga**
- **The Principal Judge, Hon. Richard Mwongo**
- **Other Judges Present**
- **Chief Registrar of the Judiciary**
- **Other Members of our Judiciary Present**
- **My Fellow Colleagues**
- **Ladies and Gentlemen**

1. I must say that today heralds a special day in the history of this country, and we as the Ethics and Anti-Corruption Commission take special delight as we take part in this ceremony we are about to witness. It is a milestone day that will have its mark in the annals of the fight against corruption in Kenya.

2. I vividly recall that day, sometime in November 2015; when heads of various law enforcement agencies under the Multi-Agency Team held a discussion with the former Chief Justice Hon. Dr. Willy Mutunga; and an idea was mooted to establish a High Court Division specifically dedicated to corruption and economic crime cases.
3. Dr. Mutunga candidly told us that he had also harboured the same idea for some time, and that he was ready and willing to do just that. But, he gave us a condition – that the law enforcement bodies must put their houses in order because once the division is established it would not be business as usual. Before the year was over, the former Chief Justice issued the Kenya Gazette Notice No.

9123 which established the Anti-Corruption and Economic Crimes Division of the High Court.

4. But we were a bit worried. The establishment was coming too close towards the end of the tenure of the Chief Justice, and we were not sure how his successor would take the matter.
5. You will therefore understand our great delight when we witness the vigor and commitment with which our new Chief Justice Hon. David Maraga has embarked in supporting the war on corruption. From the day he was sworn in, he has made it his daily business to boost our efforts to fight corruption in whichever way he can. We are indeed very grateful Bwana Chief Justice.

6. I recall that during the latest meeting of the National Council on the Administration of Justice which you chaired at the Stanley Hotel on 16th November, the topic of corruption was given high prominence in the agenda. Indeed the launch and operationalization of the Anti-Corruption and Economic Crimes Division was discussed at length, and today is a clear demonstration that you meant every word in the promise that you gave to us that day.

Hon. Chief Justice;

7. The fight against corruption is fraught with many challenges. One question that we are always asking ourselves is whether and when the war on corruption will be won. Despite huge efforts and

resources that go towards dealing with the menace, it appears like there is too little to show by way of results. To many who are not in the arena, the war against corruption is a losing battle, one on which public resources are being wasted.

Ladies and Gentlemen;

8. As we lay strategies to fight the menace of corruption, we must remember that the people we are up against in most cases are the high and mighty in society, people with a lot of influence. They are individuals who wield a lot of power in society, and can shape the politics and other processes that determine the everyday lives of the members of the society, including the crime fighter. They

often have the means and certainly the will to interfere with investigations or derail a prosecution.

- 9.** Developing evidence in corruption cases is not easy; especially because in most cases the parties to the transaction which constitutes the corruption are in a consenting relationship, as both sides are working towards benefitting from the deal.
- 10.** One sure way to deter the corrupt is in ensuring that there is certainty of detection, apprehension and punishment for anyone who engages in corruption, irrespective of their status in society. We as law enforcement agencies are doing our best to safeguard the detection and apprehension certainty. We thereafter pass the baton to the prosecutor and the Judiciary for ensuring certainty of

punishment to the offender. This completes the justice chain, a process which if it is well enforced acts as a sure deterrence to, not just corruption but indeed every other crime in society.

- 11.** The establishment of the Anti-Corruption and Economic Crimes Division together with its Practice Directions is a great stride towards ensuring speedy determination of corruption cases and therefore certainty of punishment for the corrupt.
- 12.** Over the years, we have always lamented against the slow dispensation of justice, especially with regard to cases of corruption. The court records will bear witness that, for nearly every investigation or prosecution of corruption, there is a concurrent judicial review or constitutional petition against it. This

has led to the stalling of many cases or investigations, allowing the corrupt to go scot free. With the establishment of the division, this will hopefully be a thing of the past.

- 13.** On behalf of the Ethics and Anti-Corruption Commission, I take this opportunity to commend the Chief Justice and the entire fraternity of the Judiciary for this noble step. We are indeed proud to have been involved in the build up towards the establishment of the court; and again in this ceremony as we launch the Division.
- 14.** I also humbly request the Chief Justice to appoint more magistrates to the Special Anti-Corruption courts. We appreciate the recent gazettelement of 13 magistrates who are doing well to operationalize the day to day hearing of corruption and economic

crime cases in the lower courts, as required under section 5 of the Anti-Corruption and Economic Crimes Act.

15. I call upon the gallant judges and magistrates who have the honour to serve the public in the anti-corruption courts to do so without any fear or favour. Allow me to quote the words of Theodore Roosevelt, during a speech in 1910, when he said as follows-

"It is not the critic who counts; nor the man who points out how the strong man stumbled, or where the doer of deeds could have done better. The credit belongs to the man who is actually in the arena, whose face is marred by dust and sweat and blood, who strives valiantly, who

errs and comes up short again and again, because there is no effort without err or shortcoming, but who knows the great enthusiasms, the great devotions, who spends himself for a worthy cause,; who at the best, knows, in the end, the triumph of high achievement, and who, at the worst, if he fails, at least he fails while daring greatly, so that his place shall never be with those cold and timid souls who knew neither victory nor defeat'.

16. On behalf of EACC and the other law enforcement agencies, I take this opportunity to assure you that we fully support this initiative, and shall do our best in ensuring that the Division is successfully

and expeditiously operationalized so that the intended benefits are realized in the shortest of time.

- 17.** Once again, allow me to sincerely thank you all, and mostly the Hon. Chief Justice for making this day a reality. Thank you very much indeed.

**Halakhe Waqo, CBS, ACI Arb
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