



THE JUDICIARY

**REMARKS BY THE PRESIDENT OF THE COURT OF
APPEAL OF THE REPUBLIC OF KENYA THE HON.
MR. JUSTICE P. KIHARA KARIUKI AT THE LAUNCH
OF THE HON. THE CHIEF JUSTICE'S STRATEGIC
BLUE PRINT
AT THE CHIEF JUSTICE'S GARDENS, NAIROBI**

26TH JANUARY, 2017

The Honorable the Chief Justice is about to unveil His Lordship's Strategic Blueprint for this esteemed institution of the Kenya Judiciary. It is a bold vision that is deeply rooted in the most pressing needs of an African Judiciary in the first half of this millennium; an age when more and more of our people are becoming accustomed to immediate answers and solutions at the touch of a button in their hands. Kenyans no longer queue for hours at the bank to make

deposits or to withdraw wages. They pay school fees, renew business licenses and apply for passports from the comfort of their homes. Why must they queue at the judiciary for months on end waiting on us to pronounce the final word on their disputes? Never before have we been as challenged as we now are to enter the modern economy of *eCitizen*, of *Mpesa*, *MShwari*, *boda boda* and *Uber*. The need for justice that is timely, knowledge-based and

accurate is urgent, it is the anchor that secures our democracy by providing the oil that guarantees the smooth turning of the wheels of our Constitution.

As we move to upscale our use of ICTs, let us be very clear ICT is not an end in and of itself. ICTs are a means to a worthy end. Properly used, ICTs can transform the speed and style in which we work. They

can secure public records for all time and they can provide a valuable reference point that guarantees the accountability of every judicial officer.

If we apply ICTs with consistency and candour, they will further our mission to rein in corruption. By the same token, ICTs can give us a new case management system. We must apply ourselves to this

urgent need to hasten the speed with which cases are filed, heard and determined. Let's us not miss the connection between these two things - between case back log and corruption. The former begets the latter. People who have no guarantee of finding expeditious closure in their disputes will seek short-cuts within our courts. At the same time, our reputation for corruption encourages some to unduly

prolong cases before us, using delays as a means to leverage a kickback from litigants.

We must also remain alive to the fact that whatever blueprint we craft and launch here today, its success is dependent on our ability to recognize, name and embrace the strength and the virtues that today's Judges, Magistrates and all who serve in the Judiciary must possess.

Justice Albie Sachs has named them the 3 Cs:

Courage

Collegiality

Civility

The judiciary is always alive to the threat of interference by the Executive. So is the general public that observes and learns from our every day practices. They know that the three arms of government must be separate but inter-dependent and they watch keenly to see

whether we at the judiciary cave in to pressures and favours from both the Executive and the increasingly large and vocal Parliament. It takes **courage** “to say ‘No’ in the face of thunder”, as Africa's visionary poet, Christopher Okigbo, wrote in the 1967 collection, *Paths of Thunder*.

But Parliament and the Executive are not the only thunder that we must learn to say “No” to. Each of us has affinities to a tribe, a church, a *chamaa*, a favourite NGO, civil society, a neighbourhood, a family a wife or mistress, a husband, a commercial enterprise – even a cause. As dear as each of these affinities are to each of us, when they stand between us and our work, they are no longer our strength, they become rumbling and dangerous clouds of thunder.

Whenever they stand between us and our work, we must cultivate the courage to say “no”. Repeatedly.

The second C, **collegiality**, is the reminder that as a judiciary we are brothers and sisters bound together by respect for and adherence to the rule of law. The more we put our heads together, the stronger we become - in our thinking and in our execution of the work before

us. When we keep our heads closely knit together in robust debate and enriching feedback to and from one another, we become a formidable united front against any force that may have unworthy ideas about swaying the independence of the judiciary. Collegiality is also about being your brother's – or for that matter, your sister's - keeper. We must help each other to remain on the straight and narrow.

Finally, let us march forward in **civility**. We now live in a world where the sense of responsibility and self-restraint that come with civility have become rare commodities as people embrace a raft of new rights and find their voices in spaces where once they were either cowed or ignorant. Having a voice is not the same thing as being negligent, loud, unbridled and uncouth. Sadly, not everyone

conforms to this truth. The Judiciary must always hold itself high, above the common tendencies of loud discord and abrasive public exchanges precisely because it is the final arbiter in all disputes be they personal, local, corporate, electoral or constitutional. Civility is our guide. Civility is our shield. To be civil is to be caring and compassionate, confident, correct and yet, firm, in our handling of all resources, including people.

If we resolve to work with and by the strengths and virtues that I have outlined here - the three Cs of **courage, collegiality and civility** - we won't just talk of fighting corruption, we will have conquered it. In our everyday actions and our daily decisions, we will have made corruption in the courts impossible. Let us not lose sight of the fact that the time for action **is now**. The time to make a difference that

matters, to make changes that will stand the test of time, to make transformations that will enrich the life of every Kenyan, **is now**. Many of our African communities have proverbs that remind us that **“if you find water rising up to your ankle, that's the time to do something about it, not when that water is around your neck”**.

In another part of the world, the Reverend John Thornton expressed

this same idea, a little differently. He said, **“The ancients painted time in the form of an old man with a large tuft of hair on his forehead, but bald behind, to teach us, that, if we catch him not as he comes, it will be impossible after he has passed by.”**¹

Today, I want to echo the wisdom of all these elders and observe that, indeed, time is not lost at the end of an assignment or at the

¹ *Maxims and Directions for Youth On a Variety of Important and Interesting Subjects (1811).*

end of life's voyage, it is lost in the beginning. How we finish the race or assignment matters; but how we start it, matters just as much - maybe even more. Let us seize today and make it count.

THANK YOU

P. Kihara Kariuki
President of the Court of Appeal.