

## PRESS STATEMENT

The Kenyan people deserve to know that the statement attributed to the Right Honourable Martha Karua Minister for Justice and Constitutional Affairs as published in various editions in today's print media that; 1) I refused to cooperate with the Kenya Anti-Corruption Commission and its investigations into the Anglo-leasing affair and; 2) that I refused to authenticate my statement are unequivocally untrue.

For the record, let me categorically state that Ms. Karua is flatly wrong and I can only speculate on the basis of her intervention on behalf of KACC, which is an autonomous Commission, or how and why she would be privy to its investigations. Before speaking out of turn, Ms. Karua should have asked me to detail the extent of my cooperation with the KACC if this matter was so important to her and in pursuit of natural justice. In refuting these allegations, I am obliged to hereby explain the sequence of events as they took place to avoid any misunderstanding and to pre-empt any attempt to mis-represent any of the facts as they stand.

I have done everything possible to assist Mr. Justice Aaron Ringera, the Director of the KACC, in his investigations into the Anglo-Leasing scandals. For the avoidance of doubt, I want to lay out in this statement the history of my assistance and cooperation with Mr. Justice Ringera and the KACC. I also wish to state my unequivocal contention, that neither Mr. Justice Ringera, nor the government of President Mwai Kibaki, have shown any serious interest in pursuing the perpetrators of this scandal. Rather than look for red herrings and scapegoats, Ms. Karua, Mr. Justice Ringera, and the Kibaki government – **all of whom are aware of the perpetrators** – are better advised to zealously investigate this matter and bring to book those who are culpable as soon as possible.

Since December last year, I have cooperated with the KACC in four major ways in its investigations into the Anglo Leasing affair as follows:

First, I sent out to Mr. Justice Ringera in December 2005, the report I had prepared on the Anglo Leasing affair with my signed cover letter. I spoke to him on phone and he confirmed receipt of the report. A similar report had been made available to H.E. the President in November 2005. I sent the report to President Kibaki first since it is he that I reported directly to in my previous capacity as the Permanent Secretary for Governance and Ethics in the Office of the President. I sent the report to Mr. Justice Ringera because he is the officer mandated under Kenya laws to

investigate and make recommendations for action by the Attorney General.

Second; at the request of Mr. Justice Ringera, Professor Makau Mutua, my legal advisor, and I prepared detailed responses to questions that the KACC had put to me in advance of my appearance before Mr. Justice Ringera and senior KACC officers in London at the Kenya High Commission in the United Kingdom in March of this year. Professor Mutua and I had duly signed the document containing those responses.

Third, in the extensive one and half day appearance before Mr. Justice Ringera and the KACC, I provided them with extremely detailed oral responses to their questions. Mr. Justice Ringera has even acknowledged in writing that I was very helpful to KACC in that appearance. Again for the avoidance of future doubts and at my express insistence, Mr. Justice Ringera had made arrangements together with the Kenya High Commission in March to have our **entire appearance before the KACC audio-recorded**.

In those sessions, I provided Mr. Justice Ringera with all the information they had requested and more. I believe that we gave him the most complete accounting of what I knew about those scandals. The KACC officers who had accompanied Mr. Justice Ringera at those sessions – Dr. J. P. Mutonyi and Mr. Hussein Were – not only recorded the sessions on tape, but also took copious notes. However, much to my surprise, Mr. Justice Ringera later informed me that for some unknown reason, the taping system had failed to record the proceedings. I took the news of the failure of the recording system with incredulity as it had been our common intention to have a detailed recording of the entire event to avoid the very kind of later distractions and misinformation Kenyans are now being subjected to by the Minister ostensibly in-charge of overseeing the affairs of the Justice sector in Kenya.

On the morning of the second day of my London sessions before KACC, Mr. Justice Ringera and his officers produced their own statement that they had written overnight after the first day of my appearance before them. They claimed that the statement was a true reflection of what I had told them the previous day. They asked me to read and sign the statement. Professor Mutua and I categorically told Mr. Justice Ringera and his officers that it was neither necessary, nor prudent as a legal matter, for me to accept as mine a statement that the KACC had written. On the advice of my legal counsel, I declined to sign the statement. Instead, I told Mr. Justice Ringera that I would revisit the statement that

Professor Mutua and I had prepared in response to their questions, sign it, and send it to him. I later revisited that statement in light of the investigations, signed it, and sent it to Mr. Justice Ringera.

Fourth, the evidence I gave at my appearance before the PAC in London in February is part of the Hansard and available to Mr. Justice Ringera and the KACC. I believe the KACC reports to Parliament and the PAC's recommendations were clear. In addition, I have provided Mr. Justice Ringera with every piece of information to the fullest detail that he has ever requested of me. I have made available to him relevant documents and audio tapes that I have authenticated, signed, or given under oath to assist in the KACC's investigations. Furthermore, I have offered to continue to assist Mr. Justice Ringera in every way that I can in these investigations. I remain eager and willing to do so.

But there is final aspect of which I have a duty to inform Kenyans and which in light of recent events, throws into specific question Mr. Ringera's – and the government's - commitment to hold accountable those responsible for the Anglo-Leasing scandals. While in London in March of this year for the KACC hearings, Mr. Justice Ringera told Professor Mutua and I that we should drop our pursuit of the perpetrators of the Anglo Leasing scandals because, as he put it, “the culprits had already suffered enough.” Mr. Were and Dr. Mutonyi were present in the room when Mr. Justice Ringera offered this advice. Later, Mr. Justice Ringera pulled Professor Mutua and I aside and told us that there would be no Anglo-Leasing prosecutions until after the elections in 2008, if ever. He also warned us not to underestimate the “pain that you have caused certain people.”

I am dismayed and disappointed by a statement reportedly made by Honourable Martha Karua and the inordinate length of time the government is taking to deal with what are very serious matters in our democracy. In my view, these are not the sentiments that one should expect from the top government official charged with fighting corruption, nor the way in which serious government business should be conducted. It seems clear to me that the government is looking for any pretext to kill the Anglo-Leasing investigations. Unfortunately, this event will not just fade away and I remain duty-bound to assisting in its resolution.

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