



Malawi Judiciary

SPEECH

BY

**THE HONOURABLE THE CHIEF JUSTICE RIZINE R.
MZIKAMANDA, SC**

AT

**THE OFFICIAL LAUNCH OF THE FINANCIAL AND
ECONOMIC CRIMES DIVISION OF THE HIGH
COURT OF MALAWI**

AT

LILONGWE

30TH MAY 2024

1. Salutations

2. It is with great pleasure that I take the honour and privilege of presiding over this important event of launching what is known as the Financial Crimes Court for brevity. I join earlier speakers in welcoming all the distinguished guests and I thank you all for your attending.
3. In 2022 Parliament passed the Courts (Amendments) Act No. 36 of 2022 under Section **6A (f)** of which the Financial Crimes Division of the High Court of Malawi was established. That law came into force on 18th November, 2022. Three Judges of the High Court were immediately assigned to that Division. They are Honourable Justice Professor Dr. Redson Kapindu, who is Judge -in- charge of the Division, Honourable Justice Violet Chipao and Honourable Justice Anneline Kanthambi. These Judges, together with other members of the Judiciary assigned to work with them, began their challenging task of identifying premises and establishing the necessary structure for the work of the Division to begin.
4. Distinguished guests and friends, setting up an appropriate structure for the newly established Division proved to be a daunting task in the face of resource constraints and limited experience. It took the tenacity of these High Court Judges and the staff assigned to the Division to get us to the point where we are today. There is every reason to appreciate them for their selfless service rendered over the time since the time the relevant law entered into force. There were times before today

that we had hoped we were ready to launch the Division, but plans fell through on account of various challenges that were beyond us. We are excited that this day has arrived.

5. It must be stated here that the new High Court Division we are about to launch today was an idea that was not taken lightly at any point, prior to the passing of the enabling legislation as well as after its coming into force. It was and remains an important feature of broader judicial reform strategies we have adopted as we embarked on a transformative trajectory of the Judiciary. The need for greater efficiency in resolving corruption and other financial crimes within the ordinary machinery of justice was the main consideration, besides calls from various stakeholders for specialization in the justice delivery system. We also know that there has been a steady increase in the creation of specialized courts to support the fight against corruption and financial crimes across the globe. Kenya, Uganda and Zimbabwe are some of the Jurisdictions in this part of the world that have similar specialized courts. Countries that have established such courts want to signal to domestic and international audiences that the country is serious about its efforts in the fight against corruption and financial crimes. Malawi is no exception to that desire. We are determined to get fully engaged in the fight against corruption and financial crimes.
6. The point must be made that the establishment of this new Division of the High Court of Malawi does not in any way mean that the criminal justice system was not able to handle corruption and financial crimes before. In

point of fact, such crimes continue to be handled in the Magistrate Courts even with the establishment of the new Division. The most recent statistics show that the Chief Resident Magistrate for the Centre has a record of 130 cases in the magistrate courts of the region while the Chief Resident Magistrate for the North has 53 cases, the Chief Resident Magistrate for the East has 37 cases and the Chief Resident Magistrate for the South has 97 such cases ongoing. What needs to be emphasized is that the increase in number as well as sophistication of corruption and financial crimes made it imperative for us to specialize through a specialized Division of the High Court for the purpose of efficiently resolving such cases. The teething problems that we do experience in the implementation of the new Division do not intimidate us from holding firmly to the idea of its existence, that includes resistance that we may face along the way. We harbour no regrets for establishing the Financial Crimes Division of the High Court.

7. For us in the Judiciary, today is a momentous day because the launch of this new Division will help us actualize efficiency and effectiveness in the delivery of justice. As the country and the world grapple with loss of resources at alarming rates through corruption and other forms of financial and economic crimes, we believe that a well-functioning Financial Crimes Division will go a long way in entrenching justice for all that ensures increased access to justice for all. We know that financial and economic crimes include a range of illegal activities from common types such as fraud, embezzlement, breach of trust and corruption, newly recognized criminal activities such as being in possession of un-explained wealth reasonably suspected to be

proceeds of crime, money laundering, financing of terrorism and violation of intellectual property rights. Economic crimes also cover many activities instrumental in the mentioned offences, such as forgery of documents and payment cards, identity theft and computer related crimes, especially misuse of the internet. Corporate crimes, tax fraud, tax evasion, consumer fraud and investment fraud make it to the list.

8. Distinguished guests and friends, the evils and dangers of corruption are common knowledge and need not to be recounted in full here. Corruption and financial crimes cause a lot of suffering to numerous innocent citizens and retard development. These offences must be fought everywhere, including the courts. This means that the courts are an important partner in the fight against these crimes. We have no doubt that this new Division will foster improved case management, leading to speedy disposal of cases by presiding officials well versed with the issues in the particular area. Our determination to use the law in the fight against corruption and financial crimes is unwavering.

9. In the past year we had a taste of the work of the Division as is demonstrated in the Malawi Judiciary Annual Report of 2023, now available from the office of the Registrar of the Supreme Court of Appeal and the High Court of Malawi. That report shows that in 2023, the Division registered 13 criminal appeals, 19 criminal cases, 37 miscellaneous civil cases, 7 miscellaneous criminal cases, 25 confirmation criminal cases, 4 criminal review cases and 17 judicial review applications bringing the total to 112 registered cases. Of these 32 were concluded and 80 were pending at different stages

in the court processes. I am advised that from inception to the time of preparing this speech, the Court has registered 137 cases of which 46 have been concluded and 91 remain pending at different stages.

10. The case load statistics presented above should show that the creation of the new Division has brought in more focused attention to financial and economic crimes, with a measure of specialization as we continue the capacity building of the personnel in that Division. The creation of the new Division, and its official launch today, constitutes a giant leap forward in the promotion of access to justice for all under the pursuit of open justice that we have embarked on. I would like to reiterate that the Malawi Judiciary is on a transformative trajectory that seeks to bring justice close to the people, promote and entrench constitutionalism, rule of law, open justice for all and improved access to justice for all.

11. We in the Judiciary are aware that the expectations are very high, that our courts will handle and deal with corruption and financial crimes with speed. We are committed to the efficient and effective delivery of justice in the face of ever-growing challenges as we deal with ever growing number of such cases brought before the courts. Our challenges include inadequate financial resources, understaffing and lack of appropriate and adequate office premises. Inadequate financial resources have slowed down the development of rules for this specialized Court. We appreciate that we are often misunderstood and unfairly or disproportionately criticized. To be absolutely clear, we have repeatedly said that we welcome informed criticism on the basis of which we believe we can improve our performance. What we

find unhelpful is ill-advised and ill motivated criticism whose only aim we believe is to vilify the Judiciary and undermine our justice system, for reasons best known to those who do it. While we may not engage in media debates, we are open to approaches that seek to understand the operations of the courts. Engagement based on mutual respect is bound to be a benefit to all, particularly the ordinary citizens who crave for justice in our Courts.

12. Before I close my remarks, I would like to remind all Judicial Officers and all stakeholders that the coming into operation of the Financial Crimes Division is a watershed moment that must herald court business unusual. We set out to promote the efficient, effective and economic disposal of financial crimes and corruption cases, and that must be the goal we aim to achieve. We are aware that there exist the Criminal Division of the High Court which deals with criminal matters, the Civil Division of the High Court which deals with civil matters, the Commercial Division of the High Court which deals with commercial matters, the Revenue Division of the High Court which deals with revenue matters, besides the new Financial Crimes Division which also deals with both criminal and civil matters. The special status of this new Division must be fully recognized and respected by all other Divisions of the High Court and all stakeholders, particularly members of the legal fraternity who appear before these courts. Financial crimes as defined by law must all be brought before the Financial Crimes Division when the matters are registered in the High Court.

13. I take this moment to seriously remind all that the Financial Crimes Division of High Court of Malawi exists as a matter of law, and not by administrative arrangements. All Judicial Officers must pay attention to the definition of the financial crimes in Section 2 of the Courts Act and must comply with the law. In Practice Direction No. 1 of 2023, it is made absolutely clear that all new financial crime matters as defined and envisaged under Section 2 of the Courts Acts handled by the High Court and filed after the coming into force of the Courts (Amendments) Act No. 36 of 2022, namely 18th November, 2022, shall be heard, tried, determined and disposed by the Financial Crimes Division of the High Court. Litigants are likewise urged to take financial crime and corruption matters fit for High Court to the Financial Crimes Division.

14. The Practice Direction is also clear that pursuant to section 6A (2) of the Courts Act, where a person or competent authority commences a financial crime matter or makes an application relating to a financial crime matter in a Division of the High Court other than the Financial Crimes Division, the Registrar shall on his or her own volition or application, immediately transfer the matter to the Financial Crimes Division. The Practice Direction provided for the handling of all financial crimes and corruption matters in clear terms and there should be no room for confusion. Furthermore, there is clear jurisprudence which emphasizes on deference and respect of the mandate of the various Divisions that must be followed. There should never be a casual approach to this arrangement, which may lead to the perceptions of judge shopping or other undesirable conduct in the administration of justice. Therefore, there must, hence-

forth, be full compliance with the law and the Practice Direction which is part of the rules of the Court. There should, from now on, be no more excuse for the handling of the financial crimes matters by Divisions other than the Financial Crimes Division. That is a matter of law and not a matter of convenience.

15. Distinguishes guest and friends, allow me, as I close, to thank all those who have supported us and those who continue to do so as we make the new Division fully established. I thank all the organizers of this function for staying the course until this momentous day when we get to launching the Division, albeit after it had already commenced its work. To all stakeholders and our distinguished guests, I say thank you for your support and for attending this event.

16. It is now my singular honour and privilege to declare the Financial and Economic Crimes Division of the High Court of Malawi officially launched.

I thank you for your kind attention and may God bless you all.