

# REPUBLIC OF KENYA



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## **PRESS STATEMENT**

*(Opposing His Excellency President Dr. William Samoei Ruto's Unwarranted Threats and Insults directed at the Judiciary & Litigators)*

A free human being is defined by two critical things: The freedom to be heard and the right to a fair hearing. Thus, liberty steadily walks on two legs, a free Press and an independent Judiciary. History has no evidence of tyrannical governments that have co-existed with these two vital institutions. And, inevitably, an attack on one simply precedes an assault on the other.

Since the independent Judiciary in Kenya is under attack by the Kenya Kwanza Government, I am sure that the next target will be our free Press. And that should concern every Kenyan.

Another poignant lesson from history is the futility of appeasing tyrants and strongmen. After being appeased, despots always gain the strength they need to dominate and plunder because the dominant human emotions that lead to appeasement are fear and despair.

The only medicine for tyrants and strongmen is to fight them back. They must be resisted by all means.

I, therefore, add my voice to those who have come out to strongly condemn His Excellency President William Samoei Ruto's recent most-unfortunate, reckless, unwarranted, ill-informed, misguided, immature, unhinged, unnecessary, barbaric, satanic and, without a doubt, unconstitutional attacks on the Judiciary.

The President has alleged without basis that the judges who have or are presiding over cases challenging the Affordable Housing Levy, and the Social Insurance Fund, were bribed by the litigants, including myself, to give orders against his two pet projects.

I take this opportunity to state categorically that I have not bribed any judge, neither am I contemplating doing so. I don't even know how judges are bribed and I am not so morally depraved that I can do so.

I also wish to categorically state that I am not aware of any of my fellow litigants, who have bribed, attempted to bribe, contemplated bribing, or may be planning to bribe any judge.

But since, like every other citizen, the His Excellency the President has a right under the law to be heard, and he also has the right to protest just as he has done, and he has access to intelligence, which other Kenyans and I don't have, I look him straight in the eye and challenge him to table the evidence of bribe taking against any judge or bribe giving he has against any litigant and let the chips fall where they may.

It is in the interest of justice that the integrity of the Judiciary is safeguarded by insulating it from both actions and omissions – be they political, administrative, or otherwise - that could undermine judicial authority (Article 159 of the Constitution) and the independence of the Judiciary (Article 160), and take away from Kenyans the right and fundamental freedom to access justice (Article 48), and to have a fair trial (Articles 25(c) & 50(1)).

Every organ of government and every resident of Kenya is subject to the law. No person or government is beyond the reach of the law. This principle is often called the “rule of law” and it is important in a democratic system of government such as ours.

In a 2004 Report of the Secretary-General of the United Nations, the rule of law was defined as:  
*“... a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards.”<sup>1</sup>*

The independence of individual judges, who are tasked with interpreting and applying the law in specific cases, is a very important part of the principle of the rule of law.

Judicial independence is often misunderstood as something that is for the benefit of the judge. It is not. It is the public’s guarantee that a judge will be impartial. The principle has been expressed this way:

*“In the final analysis we value and stress judicial independence for what it assures to the public, not for what it grants to judges themselves. Ultimately, the sole purpose of the concept is to ensure that every citizen who comes before the court will have [their] case heard by a judge who is free of governmental or private pressures that may impinge upon the ability of that judge to render a fair and unbiased decision in accordance with the law.”<sup>2</sup>*

Lord Denning, the Master of the Rolls, a famous English judge, said that:

*“Justice must be rooted in confidence and confidence is destroyed when right-minded people go away thinking: ‘The judge was biased.’”<sup>3</sup>*

The English judge was referring to the confidence litigants and the public must have that judicial decision-makers are impartial. Those who come before the courts must be certain that the decisions made are not subject to outside influence.

The allegations the President has made are grave and strike at the heart of Kenya’s constitutional order because judicial independence, upon which the rule of law rests, requires judges not to be subject to pressure and influence, so that they are free to make impartial decisions based solely on fact and law.

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<sup>1</sup> UN Security Council, *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies: Report of the Secretary-General*. (S/2004/616). 23 August 2004. Online: <http://archive.ipu.org/splz-e/unga07/law.pdf>

<sup>2</sup> Garry D. Watson, “The Judge and Court Administration” in *The Canadian Judiciary* (Toronto: Osgoode, 1976) at 183 quoted in British Columbia, Commission of Inquiry Pursuant to Order-in-Council #1885, July 5, 1979, *Report of the Honourable Mr. Justice P.D. Seaton, Commissioner* (October 23, 1979) at 11 [“Seaton Report”].

<sup>3</sup> *Metropolitan Properties Co (FGC) Ltd v Lannon* (1968).

It is, therefore, an equally grave matter if the President does not have any evidence to support his alarming allegations. And from the look of things, he doesn't have an iota of evidence against the people he has accused of engaging in bribery.

Otherwise, he would have handed the lot over to law enforcement and thrown the book at them. He would not have presented himself before the public as a comical contradiction on two unstable stilts: Spewing fire and brimstone through his mouth but flailing his hands helplessly, hanging by the skin of his teeth onto an incoherent and pro-imperialist development agenda for the country.

Being a republic, ours is a country governed by law not by the whims of men. And in the National Anthem sang daily across the land, Kenyans proudly pronounce, without mincing words, that “**Justice be our shield and defender (Haki iwe ngao na mlinzi)**”.

It follows that the prevailing state of affairs caused by the President is untenable. I, therefore, strongly urge him to abandon the destructive path he has embarked on to take us back to the dark days when nightmares such as the 2007/2008 post-election violence were visited upon us because the protagonists had no confidence in the Judiciary.

The President should immediately style up, take a deep breath, and reflect on the all-important office he occupies in the Kenyan State, as our Chief Executive, and unreservedly apologise to the Judiciary. He should also seek forgiveness from the diligent public-spirited Kenyans and institutions that have challenged his pet projects in court, and to the general public. He cannot afford to get drunk with power and begin behaving like some saturated swindler!

Further, the President is on a fool's errand if he thinks that he can intimidate Kenyans and undermine the rule of law. He won't because Kenyans will stand by the Constitution of Kenya 2010 to the hilt.

The same goes for his wet dream declaration that he will disobey court orders, or in other words, that he will suspend the Constitution, and rule by executive fiat. There is an absolute bar to such misguided errands in Article 3(2) of the Constitution, which categorically states:

***(2) Any attempt to establish a government otherwise than in compliance with this Constitution is unlawful.***

The Kenya Kwanza manifesto, which propelled President Ruto to power, was not a referendum to amend the Constitution. His election did not, therefore, amend the Constitution to remove the checks and balances therein. Irrespective of how many people voted for it, the President is free to implement his coalition's manifesto but strictly within the confines of the Constitution.

Finally, the President's knack of blaming third parties for the failures of his half-backed and visionless policies, points to the fact that he is a dyed-in-the-wool narcissist.

In his book, *From Charm to Harm and Everything Else in Between with a Narcissist*<sup>4</sup>, Greg Zaffulo writes:

*Narcissists have absolutely no capacity for context. Either you see things their way or you must be crushed into the ground. You can't respectfully agree to disagree with them. Any criticism or difference of opinion is a challenge to their entitled authority*

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<sup>4</sup> <https://www.amazon.com/Charm-Harm-Everything-Narcissist-Narcissistic/dp/1523820179>

*and is seen as a threat! You will be treated as such and be devalued, demeaned, debased and dehumanised into submission.*

And from the website [www.lifeisloveschool.com](http://www.lifeisloveschool.com), it is written:

*Deflection is a blame shifting tactic often used by narcissists. Deflection allows a narcissist to move the focus away from their bad behaviours and redirect the blame to something you may have said or done that is irrelevant to confuse you, make you feel bad about yourself, and absolve themselves from having to take responsibility for their bad behavior.<sup>5</sup>*

It goes without saying that any attempt to govern this country contrary to the law will be strongly resisted. The President should make no mistake about that. Come rain come sunshine, the serpent's eggs will not be allowed to hatch!!!

Signed:

A handwritten signature in blue ink, appearing to be 'Andrew Okiya Omtatah Okiiti', written in a cursive style.

**Andrew Okiya Omtatah Okiiti**

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<sup>5</sup> <https://lifeisloveschool.medium.com/deflection-227fd5c16e62>