



## **PRESS RELEASE**

**Monday, July 10, 2017**

**URGENT: NEWS DESKS AND EDITORS**

### **ON THE BLATANT ATTACK AND MANIFEST THREATS ISSUED BY H.E PRESIDENT UHURU KENYATTA AND SENIOR LEADERS OF JUBILEE PARTY AGAINST THE KENYAN JUDICIARY IN RELATION TO ELECTORAL DISPUTE RESOLUTION**

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The Kenyan Section of the International Commission of Jurists (ICJ Kenya) is extremely alarmed and shocked by reports in both electronic and print media attributed to His Excellency President Uhuru Kenyatta and senior members of the Jubilee Party made in Kabartonjo Town and subsequent meet-the-people tour in Baringo County.

We note that the August General Election is less than thirty (30) days away and the said statements and attendant conduct is an affront to the Constitution of Kenya and has a grave direct correlation and implication for the full realization of fundamental individual freedom to political rights<sup>1</sup> and free and fair elections<sup>2</sup>.

ICJ Kenya is deeply concerned that the continued comingling of Jubilee Party campaigns and statements attributed to political leaders associated with it are slowly driving the electoral outcome into a *'fait accompli'* state, with grave implications for the stability of the country.

We wish to recall that in December 2003 in the Commonwealth Heads of Government meeting in Abuja, Nigeria, heads of states endorsed the so-called Latimer House Guidelines<sup>3</sup> on the relationship between the three branches of State. These identified the

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<sup>1</sup> Art 38 Constitution of Kenya

<sup>2</sup> Art 81(e) Constitution of Kenya

<sup>3</sup> Commonwealth (Latimer House) Principles On The Three Branches Of Government Nov 2003

requirements for judicial independence. The heads of government identified certain fundamental values in the following terms.

“We believe in the liberty of the individual under the law, in equal rights for all citizens regardless of gender, race, colour, creed or political belief; and in the individual’s inalienable right to participate by means of free and democratic political processes in framing the society in which he or she lives.”

These values can only be secured by a rigorous application of the rule of law. The rule of law is the bedrock of a democratic society. It is the only basis upon which individuals, private corporations, public bodies, and the executive can order their lives and activities.

If the rule of law is to be upheld, it is essential that there should be an independent judiciary. The rule of law requires that the courts have jurisdiction to scrutinize the actions of government to ensure that they are lawful. In modern society, the individual citizen is subject to controls imposed by the executive in respect of almost every aspect of life. The authority to impose most of those controls comes, directly or indirectly, from the legislature and the Constitution.

The citizen must be able to challenge the legitimacy of executive action before an independent judiciary. Because it is the executive that exercises the power of the State and because it is the executive, in one form or another, that is the most frequent litigator in the courts, it is from executive pressure or influence that judges require particularly to be protected.

The interrelated nature of President Uhuru’s frontal attack on the Judiciary as a whole and veiled threats on individual judges with regards to electoral dispute resolution sends a dangerous and chilling message: that the executive shall not respect electoral dispute resolution by the courts and flagrantly negates public trust and confidence in the rule of law, which unfortunately falls way below the leadership standard expected of a government and its leaders. This has the potential to exposes the country as a whole to grave insecurity where electoral dispute(s) arise.

We wish to remind President Uhuru Kenyatta, his deputy William Ruto, Senator Kipchumba Murkomen and Majority Leader Aden Duale that they are not above the law. If their statements were to trigger violence affecting any citizen of Kenya, they shall be individually and collectively culpable and subject to be held accountable in an appropriate judicial forum.

In view of the foregoing, we therefore urge and demand:

- a) That the Judiciary and any respective Judge under attack or intimidation continue discharging their duties as per their oath of office;
- b) That His Excellency the President, Mr Uhuru Muigai Kenyatta, demonstrates the leadership expected of him as enshrined in his oath of office and forthwith retracts his unfortunate remarks while reassuring all Kenyans that he is subject to the rule of law;
- c) That the Executive arm of the state forthwith desist from engaging in public lamentations subsequent to adverse judicial review or determination by the Courts, with the correct avenue to challenge the same remaining the appellate process;

The Kenyan Section of the International Commission of Jurists (ICJ Kenya) shall not relent in ensuring that separation of powers is observed and that the rule of law is the cornerstone of our democracy and shall always be available to protect the citizens' interest where failed leadership is manifest

**Signed**

**Monday, July 10, 2017**

**Samwel Mohochi**

**EXECUTIVE DIRECTOR**

ENDS