

August 15, 2025

PROTECTING CONSTITUTIONALISM AND THE RULE OF LAW

Madam President of the Law Society of Kenya, Honourable Judges, eminent members of the Bar, learnt friends, ladies and gentlemen.

It is an honour to be here with you today as **Advocate Number 1056 of 1979**. I've had my practising certificate for 46 years, including when I served as our beloved country's tenth vice president from 2008 till 2013.

(Joke: There has been no break!)

My learned friends,

This annual conference's theme, ***protecting constitutionalism and the rule of law***, is not just timely; it is, in my opinion, the most consequential discussion of our time.

Yesterday, Chief Justice Martha Koome, Madam President Faith Odhiambo, and Prof. Migai Akech delivered such powerful speeches that, should have shaken anyone listening in this room and Stream B, as well as those watching from the outside, including the current leadership in my opinion. Following Chief Justice Koome's observation that the "*work we do as the Opposition is constitutional, yet the work we do is not in the Constitution*," allow me to contribute to the conversation.

Learned Friends,

2024-2025 is a case study of State repression unlike anything experienced in the country's 62 years of independence. The open daylight abductions; the public beatings and maiming of young Kenyans innocently protesting;

the growth of Haiti-style militia groups with caches of small arms and light weapons (SALW) terrorising Kenyans and looting businesses **under police supervision and protection**, reads like a blockbuster film.

However, it is hardly an imaginative or artistic script that awaits performers to bring it to life on our screens.

This is the current State of the nation, in which repression, tyranny, and flagrant contempt for the rule of law threaten to pervade and infect the country's soul.

Members of the bar receive calls day and night from shocked and frantic relatives looking for abducted Kenyans, most of whom are under 30. Their "crime" was using social media to openly voice their shock, rage, and incredulity over a renegade state. Because they exercised the fundamental liberties guaranteed by the 2010 Kenyan Constitution, they are regarded like terrorists and charged under the Prevention of Terrorism Act and persecuted like criminals.

Not long ago, a few young Kenyans came to my office and spent time narrating their traumatic experiences with abduction and torture to me. Despite what they went through, the physical and mental torture each of them endured, and their fears that death was just a minute away, they all spoke confidently about one thing: their faith in our Constitution to rescue not only them, but also the others who were in the cages with them.

It is that faith in the sanctity and supremacy of our Constitution that protects Kenya from becoming a failed state. When there is state capture of parliament and of state agencies, when elements of the Church and sections of the Opposition have been compromised to look the other way, it is you, the Law Society of Kenya, who have held fast. You have become a beacon of conscience for the country in such perilous times. You responded to distress calls at all hours and volunteered your services

because it is the right and moral thing to do. The country is deeply grateful to all of you.

(Applaud their leadership).

As the United Opposition, we have also taken firm and decisive action because enough is enough. Silencing citizens by state overreach and suppression of opposition is unconstitutional. As Chief Justice Koome correctly stated yesterday, "You cannot criminalise human rights defenders!"

Because of this rogue regime's inability to defend and protect human rights and constitutional values, and guided by our Constitution, particularly Article 1, we established the People's Restorative Justice Commission (PRJC) on June 25, 2025.

This people-led initiative, chaired by Speaker Emeritus JB Muturi and commissioners Dan Maanzo, Fred Ogolla, Asha Bashir, and Nerima Wako, has been working around the clock to restore dignity, rebuild lives, families, communities, and society, and hold perpetrators accountable for crimes against humanity.

The Opposition's initiative, that is already getting international recognition, is starkly different from the recently announced Taskforce by President Ruto and Raila Odinga. The question we and majority of Kenyans are asking is: how can the perpetrators who gave the shoot-to-kill to shoot-in-the-leg decree be the judges of their own already admitted crimes?

By compensating the regime has already admitted its guilt and complicity.

Going forward, all Kenyans arrested and detained during the Maandamano protests and Saba Saba Day demonstrations must be

released immediately and unconditionally. These include all those who were dragged through the Anti-Terrorism Court and treated like terrorists.

Further all Kenyans injured during these demonstrations should be compensated for their physical and mental anguish.

Lastly, there cannot be categorisations of deaths. All those killed by this regime must be compensated regardless of their locality and ethnicity.

Friends,

Today more than ever, I am reminded of Brutus words to Cassius in William Shakespeare's play "**Julius Caesar, Act IV.**" that; "There is a tide in the affairs of men, which, taken at the flood, leads on to fortune; omitted, all the voyage of their life is bound in shallows and in miseries."

Time is of importance my learned friends to rescue our nation from a regime actively determined to suspend our hard fought for Constitution. The law is not just an instrument of order; it is a covenant of justice. If we are not vigilant, our Constitution shall be eroded and Kenya's present and future will be extinguished.

Kenya cannot succeed without a vigilant and courageous legal profession. And you, the defenders of the law, cannot succeed without a principled political class willing to defend your independence. If we lose the law, we lose the nation. This is the challenge of the most consequential discussion of our time.

Thank you and God bless the Republic of Kenya.

HE DR STEPHEN KALONZO MUSYOKA, EGH., SC.