

**KEYNOTE ADDRESS BY THE PRESIDENT OF THE UNITED
REPUBLIC OF TANZANIA, HIS EXCELLENCY JAKAYA
MRISHO KIKWETE AT THE HALF ANNUAL GENERAL
MEETING OF THE TANGANYIKA LAW SOCIETY HELD AT
THE CHIMWAGA HALL, DODOMA, TANZANIA
13TH AUGUST, 2010**

Hon. Minister for Constitutional Affairs and Justice;

Honourable Justices and Judges Present;

*Permanent Secretary of the Ministry of Constitutional Affairs and
Justice;*

President of the Tanganyika Law Society;

Resident Director of the Friedrich-Ebert Stiftung in Tanzania;

Learned Colleagues;

Distinguished Guests;

Ladies and Gentlemen:

I thank you Mr. President for affording me this rare honour and privilege of addressing this unique gathering of law luminaries on the occasion of the half Annual General Meeting of the Bar Association of Tanzania – The Tanganyika Law Society. With a light touch, I have been asking myself if I have any liberty to re-name the Bar association in line with the current state of our country. I

was urged to continue with the name of the Bar as it was baptized seventy five years ago, at the time we were still under colonial bondage. However, I feel duty bound to restate our history. Forty six years ago, that name of our country changed. Many Institutions that included Tanganyika in their titles adopted Tanzania in order to replenish their relevance by remaining abode the changes except for the Bar Association. By remaining with your old title you stand distinctly different from all the others.

Mr. President;

Ladies and Gentlemen;

I commend you for the decision to dedicate this Half Year General Meeting for discussion on the forthcoming General Elections in our country. The choice of the theme for the meeting “**Roundtable on Elections and Democracy**” is therefore, very opportune indeed. It shows the importance elections draw from people of all walks of life and

institutions of all types including the Tanganyika Law Society.

Rule of Law and Elections in Africa

Mr. President;

There is encouraging progress with regard to human rights, rule of law, good governance and democracy in Africa and Tanzania in particular. This is very much function of fundamental changes that took place between early 1980s and mid 1990s. The African Charter on Peoples and Human Rights in 1981 was adopted the OAU Summit, at Banjul, in The Gambia. Following that, political reforms swept across the whole of the African Continent. Many independent African countries adopted the Bill of Rights in their constitutions. As a result greater personal freedoms including freedoms of association and expression were granted to the people. Democracy was underpinned. Military coups and military dictatorship gave way to democratically elected Governments. Beginning early 1990s

the transition to multi party democracy in the majority of our countries had begun in earnest.

The African Union enshrined democratic governance in its Charter hence the non-recognition of leaders and governments that come into office through undemocratic means. Indeed, this principle has been applied with regards to several countries including the Comoros, Ivory Coast, Niger and Guinea Conakry.

Besides that, the AU Charter has reserved the right to intervene in countries where there is gross violation of human rights and serious threat to peace and security. The AU Charter reserve the right of the African Union to intervene in member states faced with such situations. No longer, these days are coups or violation of human rights and democracy considered as internal affairs of nations which others should keep away or remain silent about them. Many regional groupings have enshrined similar powers in their institutions.

As you all remember, these days, election observation is a collective responsibility of the AU and respective regional economic groupings. There are codes of conduct for holding democratic elections established by the AU and regional groupings which member states have to abide. There are important developments in Africa which have helped improve matters of governance, human rights, rule of law and democracy. I know more work needs to be done to consolidate the gains and do further improvement and perfection. The good thing is, there is awareness to do so and the political will does exist. For sure, Africa's future is promising.

**Political and Constitutional Accountability of Our
Government**

Ladies and Gentlemen;

In many African countries today, there is greater awareness of the importance of accountability of

Governments, both constitutional and legal accountability as well as political accountability.

The constitutional accountability:

Let us take the case of Tanzania for example. Since independence the government has enjoyed an unchequered history of constitutional accountability. Throughout the 49 years of independence, constitutional legality has been the basis of running state affairs. At no time has the Constitution of Tanganyika, later that of the United Republic of Tanzania been abrogated or suspended. Even at the time of single party mode of democracy, we had a solid constitutional basis which held our Government accountable.

Popular accountability:

The government has always been democratically elected one accountable to its people directly and through Parliamentary oversight. All along periodic elections have been held and through universal suffrage the executive and

legislature drew their mandate through the popular ballot. There was an interlude of one party mode of democracy which I believe was essential for an infant polity then, to consolidate our independence and ensure political stability. It is very true that even now at the time when we have reverted to multiparty democracy, some pertinent social-political and democratic values acquired in the past are the main sources of strength, and the basis of peace and stability we enjoy in our country. They guide the way we relate to each other in a nation of diverse people in terms of ethnicity, tribe, religion and political affiliations. We always recognized and celebrated our diversity without political, ethnic, tribal and religious tensions and acrimony. We are determined to keep those values because they have worked well for us and they will work well for us in future. There is peace, stability, harmony, cooperation and solidarity among the people of this country because of these important values.

Separation of Powers:

Ladies and Gentlemen;

Our country has maintained a system of Government which has remained solidly accountable to the law and checked through the principle of separation of powers. With an elected Legislature, the Government has always been held accountable to it. The legislature has been held accountable to the Constitution and the Law; both of which are administered through our Judicature. We take pride in having, by all standards, an independent judiciary. The culture of Constitutionalism that we have all along maintained and cherished has ensured a responsible and accountable Government. The Government that has also been responsible to it's people as well as to the Constitution and the Law all the time. This arrangement has enabled a harmonious functioning of all the three state organs.

The 2010 General Elections:

On the 31st October this year, we shall conduct yet another General Election, where the Union President, the

President of Zanzibar, Members of the Union Parliament, Members of Zanzibar House of Representatives and Local Government Councilors will be elected. We expect the elections will be managed well and that the electorate will freely and fairly be afforded the opportunity to elect leaders of their choice. The National Electoral Commission as well as the Zanzibar Electoral Commission have been well resourced to enable them perform their functions properly. Again, running our elections well, fairly and freely has been a hallmark and guarantor of peace and stability in Tanzania. Being cognizant of the fact that mismanagement of elections has been a major source of conflicts in Africa, we in government take seriously the matter of ensuring everything is in order. The rest we leave it to the political parties and their members to conduct themselves well so that they do not become the source of trouble in elections and cause instability. We in government are taking the necessary

precautions to prevent that from happening or respond accordingly when need arises.

Voter Education and Monitoring

I have heard with great delight that you have embarked on the noble task of voter education and that, you would also like to be observers in the next General Elections. I know you will, as professionals of good standing, I trust that you will partake your activities with a great sense of professionalism and responsibility. I don't perceive a situation where you will do things outside the confines of the electoral laws or mandate of election observers. Election monitoring has its rules and ethics, which enjoin the monitors to conduct themselves with impartiality and fairness. Your professional standing adds credence to you already possessed trust, that you will manage well both responsibilities as voter educators and election monitors. In the past it has been difficult for some organizations to do so.

Irresponsible or compromised monitoring may have adverse effects on the stability of nations and could be a source of disrupting the peace and unity that we have painstakingly built over the years. We are all Tanzanians. We have a duty to ensure that the country we inherited from our forefathers and our founding fathers of the modern state is jealously protected and guarded. We are duty bound and responsible to ourselves and our children's children to bequeath to them a united, stable and peaceful country where everyone will be proud to live.

The Role of Tanganyika Law society to the People

Tanganyika Law Society has for a long time played an important role in ensuring that people have access to justice. Unfortunately, accessing justice has remained expensive. As a result many Tanzanians cannot access this fundamental right. They cannot afford the cost of hiring legal services in time of need. This is something which cannot be left to continue the way it is. Something has to be done to erase the

impression that your profession is un-affordable, not up to speed and remains wanting in terms of compassion to the less advantaged.

Mr. President;

You also need to address issues of ethics and discipline among your professionals. I understand that this body has a disciplinary mechanism of its own. I am constrained to note that the dismal effectiveness of these mechanisms have left many who have complaints against some of the blemished among your members without remedy. The professional maturity that is possessed by your association is strong enough to make you stand out against those who tarnish your hard worn good image. You must demonstrate this maturity in practice.

Ladies and Gentlemen;

The legal profession is about the rights of the people. The clients who come to you for legal assistance be it a paid brief or *pro-bono*, place into your hands a trust and invariably

proprietary interest. It is hard to believe the wide spread complaints that people who come to you for assistance are forced to leave behind their fortune and walk out with empty pockets. I am minded that the cry of hiked fees and costs would be belied if you were to abide by your own rules on remuneration, which I am told, are invariably observed more in breach than in compliance.

I am also told that you have in place strict accounting rules which you have always shunned to use, to the disadvantage of your ignorant clients. Those rules forbid you from accessing your clients accounts, but in many occasions we hear complaints of devastated accounts, yet leniency in enforcing your disciplinary mechanisms, has occasioned your failure in touching your members. It is time you seriously look at these shortfalls and plug them. We wish to see a disciplined legal practice that adheres to its well tailored rules.

Reforming Legal Practice

Ladies and Gentlemen;

Reforms in the legal sector have been our agenda for the last two decades. These reforms have been going on along those carried out in other sectors including the Financial Sector, Public Service, Local Government and others. One good result of the legal reforms is a revamped judicial institution. We have seen a functioning Commercial Division of the High Court, Labour Division of the High Court, Land Division of the High Court and an increased number of law graduates from 60 graduates from the University of Dar es Salaam a decade ago to almost 916 graduates this year. The number is growing. I am told the curricular has been reviewed to cope with the demands of the present time.

Despite these achievements, a more vibrant legal practice would be achieved with an enhanced customer satisfaction. This overarching problem could be addressed at least in the following three areas. First, increasing

specialization, second, enhancing efficiency, and third, protecting customer's interests.

On increasing specialization trust me, every time I am asked to recommend to my friends a conveyancing legal expert, or company law expert or family law expert I become mouthful despite the fact that there exist a good number of legal personnel I know. All these lawyers claim to be experts in every field of the law. Gone were the days when lawyers were dubbed jackals of all trades. It is time now you emerge with specialized legal practice to cope with the needs and tastes.

Secondly, efficiency will best be achieved with teams of lawyers. Solo practice is increasingly loosing ground. You must invest in training and management of law firms, in order to conduct yourselves in an organized manner. The heart of organized firms is having solid corporate rules compatibility of founding members discipline and forward looking. Our economy as well as the just established East

African Common Market requires your organized practice through established competent law firms. We are looking at the growth and maturity of legal practice by establishing law firms as a source of employment for the growing number of young law graduates. As our economy expands there is a lot of work in the market. All that is needed is for the law practice to properly line up itself.

On the question of protection of customer interest, you may seriously consider maintaining a scheme of professional indemnity insurance to address the eventuality of losses that may be sustained because of mishaps or even misdeeds in your profession.

Lastly access of indigent to legal aid is a serious problem. There are a number of initiatives that have been put in place in aid of the poor. The Tanganyika Law Society has one which is the oldest. There are other schemes under various umbrella such as the Legal and Human Rights Centre, Tanzania Women Law Association just to mention a

few. You have all done a commendable job. However, there is need to collaborate your activities and take stock of these schemes in terms of their outreach and effectiveness. The poor majority of today should not be left to loose their hopes of getting their rights in a country where we are not starved of lawyers.

Ladies and Gentlemen;

I have taken so much of your time but I believe it has not been in vain. I wish you very fruitful deliberation. It is my hope that for our learned sisters and brothers who have come from outside Dodoma will find a splendid new University of Dodoma a good place to visit. I believe when you come from that place you will recommend your children, relatives and friends to join it. I wish you all the best. With these many words, I declare your meeting open.

Thank you for listening.