

Empowering the Poor

Remarks

by His Excellency Benjamin W. Mkapa, Former President of the United Republic of Tanzania, Co-Chair, Investment Climate Facility for Africa and Commissioner, Commission on Legal Empowerment of the Poor

Chairperson,

Mr. Abdoulie Janeh, Under Secretary of the UN and ECA Executive Secretary,

African Ministers of Finance, Planning and Economic Development

Members of the AU and UN Africa Economic Commission Distinguished Guests

Ladies and Gentlemen:

1. I would like to thank you for your generous invitation to me to speak about "*Empowering the Poor*". Some of you may remember that last year around the same time, I addressed this gathering on "Investment Climate, Development Finance and Challenges of meeting the Millennium Development Goals". My remarks today are a sectoral adumbration of the theme of poverty eradication.

2. I also heartily thank the organizers of the 50th Anniversary Celebration of the ECA for the singular opportunity and distinction given me to reflect on this pervasive constraint to Africa's development i.e. the marginalization of the poor in our societies. My view is that we will make little or no substantive development progress if we don't engage and empower the poor in our countries. This is our cornerstone challenge.

3. Liberation from colonial and racist rule, nearly 50 years ago, was expected to usher in an era of prideful sovereignty of the people of Sub-Saharan Africa which would be nourished by increased equality under law, and mounting economic prosperity for its citizens. In truth, today, the sovereignty of the state is a reality but the nourishment is acutely absent. The majority African people are remarkably poor. The continent is the penultimate reservoir of world natural resources-under and in territorial waters, over land, under land and in its vegetation. But these are assets which go to make people in other continents richer and leave Africans abjectly poorer.

4. This poverty comes from Powerlessness. They have voice, which they express through periodic voting, but it is voice to service inherited institutions of governance. To have power of voice, they need to be recognized by Law and Institutions which sees them as principal targets not simply prop-up appendages. They are poor also because they live, work and find economic accommodation outside institutions and rights-based systems, established systems inherited from the colonial and apartheid times when they were designed to exploit the poor and to exclude the poor.

5. To fight Poverty and to realize the Millennium Development Goals in Africa at this time there is need to reform the existing established political and economic governance systems.

There is need to make them relevant. There is need to make them inclusive of the Poor. There is need to loosen the embedment of the political, economic and bureaucratic elites.

6. What are the characteristics of the Poor among us? First and foremost, they do not have a legal identity. They are a statistic -a number, as part of the population size of the country, of those who have not gone to school, those who have died in floods, those infected with HIV / Aids etc. At best, they have a national identity card or a voter registration card, which cannot be used as tools for self economic transformation.

7. The poor have property, but strictly speaking, it is not recognized in law because it is likely to be unregistered and therefore lack a legal address. Yet, both in an urban and a rural context, secure tenure is the most critical factor to protect poor people's livelihood. They own land, but again whether it is in urban or rural areas, it is strictly speaking not recognized by law because it is likely to be unsurveyed, unregistered and untitled. Some may own a business, but it is likely to be informal and extra-legal mainly because they sought to circumvent the multitude of steps, barriers and costs required to start, register and operate a business. A diagnostic study commissioned in Tanzania in 2004/5 reported that the bulk of the economy estimated at \$30 billion was in the informal sector, and that 98% of businesses operated extralegally while 89% of real property was held extralegally. I do not think that the poor of Tanzania are very exceptional!!

8. The poor have little knowledge of the law. Far too often as a famous poet once observed, "Laws grind the poor, and rich men rule the law". A great deal is said about the people's ignorance of the country constitution and therefore the imperative of civic education. But far more grave in consequences on their lives is their ignorance of laws that govern economic activity and provide remedy to economic and trading injustices and disputes. Because most poor people have little or no contact with the formal legal system, they rely on the bureaucracy to find solutions for them, or resort to informal norms, practices and institutions, which often turn out to be more oppressive and costly!

9. The majority of working people are poor. Those who constitute over fifty per cent working on the land as peasant farmers and livestock keepers are unrecognized and have little say over their production in terms of prices, markets and other terms of trade. Those self- employed in urban areas such as hawkers and stall holders are informal and unorganized, and therefore prey to the ploys of administrators. Those who are employed in formal centers of production and services are not well unionized with a penchant for strident demand rather than analytical advocacy.

10. Rough estimates suggest that half of the working poor in the informal economy are self-employed, a quarter are employed by informal enterprises or households, and a quarter informally employed by formal enterprises. Average earnings and working conditions are low and risks are high in the informal economy, particularly by own-account operators, casual day labourers and industrial workers. The gender dimension of informality in the labour market is particularly striking: employment is generally a larger source of employment for women than for men.

11. This extract of African Poverty is only part of the Portrait of Global Poverty. Over the last two years, I have been privileged to serve on an International Commission on the Legal Empowerment of the Poor which brought together and enlisted the minds and experiences of

eminent statesmen, politicians, scholars, civil society and international organization leaders. We are about to publish our Report. Here are some of our political messages.

12. We regard Poverty as a public policy failure; poverty is man-made- by action and non-action; poverty can be eliminated. In rich countries the overwhelming majority have rights and obligations as workers, businessmen and women, and as asset holders. In developing countries, the overwhelming majority is working and living outside rights- based systems, and in many countries, the legal systems are sources of oppression and exclusion of the poor - and particularly women.

13. The challenge to release the productive potential of poor people and their livelihoods is that of Systemic Reform: to empower the poor, affirming the equality of all poor women and men in relation to the law, and in the interest of society as a whole. Legal empowerment is a goal, a process and a means to fight against poverty. *Given the chance, poor people will work to get out of poverty.*

14. The State is a key to Legal Empowerment and this Systemic Reform. Change of this nature is always multi-dimensional and takes time; but it is possible when political leadership is willing to take bold decisions, carry through on reforms and has sufficient support from key stakeholders. It must be clear by now that standard policy reforms cannot produce lasting effects or widely shared prosperity when the background institutional conditions are poor. Sound policies must be embedded in solid institutions. As development actors rethink the role of the State in development, governments and development institutions must rethink also the role of the State in relation to its own citizens -especially the poor.

15. We commend legal empowerment as a process by which people are provided rights in an appropriate legal framework -rights which they understand, can claim and find useful in improving their income and livelihoods, and which are recognized both formally (legally) and informally (legitimately). Thus, legal empowerment requires that information is available and that appropriate institutions are established to ensure that commercial and employment contracts are respected, property titles and businesses are registered, and access to social protection and justice is at hand. By this, people are able to engage as public and private sector agents and participate in fully functioning market institutions.

16. A functioning and fair rule of law cannot be imposed from outside. To ensure that it is recognized as such by a broad majority of citizens as valid, it must be created by building organically on what already works, and by creating a framework that is recognizable, accessible and open to all. It must cover reforms regarding the aspects of identity, voice, access to justice over poverty rights, labour rights and business rights.

1. Legal Identity.

More than 70% of children in the least developed countries lack birth certificates; a policy drive is imperative to provide for this endowment. Without such identity, parents often lack legitimate proof of their existence, and are unable, among other things, to take advantage of anti-poverty programmes and are vulnerable to exploitative practices such as child labour and human trafficking.

2. Access to Justice.

Reforms to promote access to justice and the rule of law should seek to:

- Make audit of the current laws and repeal those that are harsh and marginalize the rights, interests, and means of livelihood of poor people.
- Make the formal judicial system, land administration systems and relevant public institutions more accessible by recognizing and integrating customary and informal legal procedures that poor people are comfortable with and are already practicing.
- Encourage courts to be an institutional voice of the poor and support alternative dispute resolution mechanisms.
- Foster and institutionalize access to legal services and monitor their costs so that the poor will know about laws and will be able to take advantage of them.

3. Property Rights

A dysfunctional property right system is a major obstacle to economic development and disempowers the poor. On this front, the objective should be to provide opportunities or transformation of property and business entities from the informal sector into formally operated property and assets which are protected under the rule of law, by:

- Identifying main obstacles which create legal, administrative, and economic burden to the integrating of the poor in the legal economy.
- Education, through building capacity, and developing strategies that allow Government(s) to obtain support from the population in embracing the property rights, real estate and businesses to operate within legal framework.

Chairperson, Distinguished Guests, Ladies and Gentlemen:

There is the African saying: "To till the land is to love oneself."

The issue of land property rights can be very explosive and has the potential to destabilize communities. I must emphasize that, the land reform agenda must be tailored to suit and accommodate specific circumstance in each country and in each area to fit geo- and social fabrics. The land need for nomadic people in our societies is different from the need of peasants. In reforming therefore these conditions must be considered.

We in Tanzania where over 80% of the people derive their livelihood from the land, for instance, inherited our land tenure system from our colonial masters, the British. At independence, our government decided to create a system that would meet the following conditions:

- A system that will guarantee access to land to every citizen, including where necessary the possibility to redistribute land or resettle people from land shortage regions to land in another parts of the country;
- A system that would facilitate environmental conservation, and protection of state or communal assets such as wildlife and national parks, forest and water resources;
- A system that would provide sufficiently secure land rights for investment, while discouraging land speculation, and deal a blow to the concept of absentee landlords;
- A system that would ensure balanced land use plans between competing demands; and
- A system that would ensure national unity and the promotion of the national interest.

4. Labour Rights

Chairperson, Distinguished Guests, Ladies and Gentlemen: I should like to emphasize the importance of labour rights in the empowerment agenda. Our people deserve decent work and social protection. We should improve the quality of labour regulation and the functioning of labour market institutions. We must strengthen access to employment opportunities in the growing and more inclusive market economy. Labour rights is about the expansion of social protection for poor workers in the event of economic shocks and structural changes as well as a measure that guarantees access to medical care, health insurance, and pensions.

Building on agreements in the International Labour Conference during the last ten years, Core Labour Standards and the Decent Work Agenda should be one of the pillars of national programmes for legal empowerment of the poor.

5. Business Rights

Chairperson, Distinguished Guests, Ladies and Gentlemen:

Given an environment of assured business rights, the poor people have the will, the resources and the means to empower themselves and uplift their lives.

Business rights will allow them to access basic financial services, opportunities which are embodied by formal business such as the ability to raise capital through shares and bonds, the ability to take risk without risking everything through asset shielding and limited liability and to pass ownership from one generation to another.

The Reform agenda should aim to:

- Guarantee basic business rights: to trade, to have basic requirements such as business shelter, energy, water and approved level of sanitation.
- Strengthen corporate laws that warrant the possibility for one to set up and operate a business, access markets-and exit business, if necessary
- Envisage a definition of a "legal person" that includes legal liability companies that allow owners to separate their business and personal assets and thus enable prudent risk-taking
- Promote inclusive financial services that offer all entrepreneurs in the developing world what many of their counterparts elsewhere take for granted: saving, credit, insurance, pensions and other tools for risk management
- Expand access to new business opportunities through specialized programs to familiarize entrepreneurs with new markets that help them comply with regulations and requirements and that support backward and forward linkages between larger and smaller firms.

Chairperson, Distinguished Guests, Ladies and Gentlemen.

In humility may I put to you the following observations:

1. Political commitment and leadership at the highest level is needed to drive the legal empowerment agenda. This can be advanced and reinforced by giving the Poor a voice and

repudiating the saying of our people to the effect that: "If a poor man insists on giving advice to a rich man, he would be termed mad"!

2. In order to carry out reforms on legal empowerment of the poor successfully, it is important to identify change agents, who will champion the legal empowerment agenda forward.

3. There is need to have a campaign to educate the masses on the good intentions of the legal reform, especially when it comes to formalization of properties. Some people become suspicious of the initiative and think that the governments or authorities have a hidden agenda.

4. Finally, legislation alone will not give enough incentive for people to join the legal empowerment agenda, unless we address the sources of informality.

To conclude, in all our discussions of our development challenge, committed leadership at all levels (local, national, regional and international) is central. All reforms require boldness of purpose and making hard choices since they invariably result in some losers and some winners. Making reforms in favor of the powerless is often much harder.

At the national and regional levels, leaders must ask themselves as they engage with our various development partners and plan our own development strategies:

How pro-poor are our plans?

As we put emphasis on economic growth and revenue expansion, do we at the same time give priority to job creation, social safety nets, and microfinance? Are we improving our business environments and simplifying procedures because this will engage our citizens, particularly the poorer ones or is it because it is a condition of disbursement for an external assistance account? And the questions for ownership and "self dependent" pro poor models of inclusive prosperous development are many. The question for us as leaders is how many do we think about consistently? Poverty is a global problem and its solutions must be seen as "public goods" or "or global commons" as some observers propagate them. In the global village, poverty threatens everyone regardless of race, gender, social status, and worse still, the one global environment we all must share. Let me quote Sec Gen Ban Ki-Moon "the task of securing economic wellbeing, social justice, security and other global public goods requires sustained and coherent action beyond what nations or markets can provide by themselves..." In my view the challenge, at programs, declarations nor resolutions. It is of the need for REFORM and ACTION and the time for action in some of our countries was yesterday! !

A nineteenth century British Prime Minister, whose first name I share, wrote in a creative depiction of his time thus;

"Two nations between whom there is no intercourse and no sympathy; who are as ignorant of each other's habits, thoughts, and feelings, as if they were dwellers in different zones, or inhabitants of different planets; who are formed by a different breeding, are fed by a different food, are ordered by different manners, and are not governed by the same laws" -The rich and the Poor!

Short of the reforms I have outlined, we stand destined to build a similar frame of African Nationhood, and it is a frame that I believe is unproductive, unsustainable and inherently unstable. Twenty first century Africa deserves better!!!

I thank you for your kind attention.