



**South China Morning Post**

FT News, Education

## **When the law fails the poor**

29 September 2005

We have learned what works and what does not in the struggle against global poverty. Those countries that have done the best are those that respect property rights, have independent courts, a professional public service, accountable, replaceable politicians, democracy and human rights. These are key factors in development and economic progress, as well as being good in themselves.

These realities have been forced home to me in recent years, during my days as director-general of the World Trade Organisation and now in my new life in business, working with ministries and during my travels as a do-gooder. That is why I was delighted recently to be invited to be a member of a UN-sponsored high-level commission on the legal empowerment of the poor.

It is a distinguished group of eminent people. Its members include: Fernando Cardoso, former president of Brazil; Benjamin Mkapa, president of Tanzania; Ernesto Zedillo, former president of Mexico; Lawrence Summers, president of Harvard University and former US treasury secretary.

Also on the panel are Anthony Kennedy, a US Supreme Court judge, Iranian Nobel Peace Prize winner Shirin Ebadi, and Lakhdar Brahimi, former head of the UN mission to Iraq and Afghanistan. The commission is co-chaired by former US secretary of state Madeleine Albright and Peruvian economist Hernando de Soto.

Mr Mkapa, at the launch, pointed out that because most Tanzanians hold their property outside the law they were considered poor, yet studies showed that the extra-legal economy in Tanzania now holds assets of US\$29 billion - much more than all the aid and investment the country has received over many decades.

Ninety-eight per cent of all businesses operate outside the legal system, and 89 per cent of all properties are held outside the legal system. Formalising these investments and ownership would revolutionise the economy.

Dr de Soto, in his studies and book *The Mystery of Capital*, explains that the poor in poor countries have assets and, when they do succeed, it is mainly in the informal economy,

outside the legal system. The story of successful economies is their capacity to protect private investment and allow people to borrow against their assets. Most start-up businesses in the west are based on loans against properties. Yet most jobs and businesses in poor countries are outside the legal system because they do not trust the rule of law.

The assets of the poor in Egypt alone are more than 50 times all the foreign investment ever recorded there, including the funding of the Suez Canal and the Aswan Dam. In Egypt it can take 77 bureaucratic procedures at 31 public and private agencies to acquire and register a plot on state-owned desert land. This takes five to 14 years. It can take two years to set up a barbershop.

This explains why millions build their homes and businesses illegally.

The evidence is overwhelming that the model which delivers the best results in lifting living standards is where rights are upheld, corruption exposed by competition, and an active civil society polices public policies.

Studies of the poorest countries show that the most democratic ones do the best. This commission's work has the potential to change lives.

***Mike Moore is a former prime minister of New Zealand and was director-general of the World Trade Organisation***