

**CLOSE RANKS AND PROTECT TLS, RULE OF LAW: INAUGURAL
SPEECH OF THE PRESIDENT-ELECT OF THE TANGANYIKA LAW
SOCIETY, HON. TUNDU ANTIPHAS MUGHWAI LISSU, ESQ.**

Arusha International Conference Centre,

Arusha, March 18, 2017

**Honorable Chairman and Members of the Nominations
Committee,**

**Honorable President Emeritus of the Tanganyika Law
Society,**

**Honorable Honorary Treasurer and Members Emeritus of the
Governing Council of the Tanganyika Law Society,**

**Honorable Vice President-Elect of the Tanganyika Law
Society,**

**Honorable Honorary Treasurer- and Members-Elect of the
Governing Council of the Tanganyika Law Society,**

Distinguished Members of the Tanganyika Law Society,

**Honorable Executive Secretary, Officers and Staff of the
Secretariat,**

**Invited Guests, Professional Colleagues, Friends, Ladies and
Gentlemen Present,**

**Today is our historic date with destiny. For today you, Distinguished
Members of the Tanganyika Law Society, have spoken loudly and
clearly. The message that you have sent, by your simple act of
voting, will reverberate far and beyond the narrow confines of the**

Tanganyika Law Society and even those of our beloved profession. That message will reverberate in the halls of power and in the dusty streets of our cities, towns and villages in every little corner of Tanzania.

And so, before I got too far, allow me this opportunity to extend my sincerest gratitude to you, Distinguished members, for a historic turn out to these elections. For those whose membership can be traced back decades, they have confided to me that they have never seen such a packed house for a TLS election, as Simba Hall has been since yesterday. Asanteni sana.

To you, Honorable Chairman and members of the Nomination Committee and TLS Secretariat, a very special word of appreciation is deservedly due to you. You had the thankless task of sifting through the names and resumes of many deserving applicants for the various elective positions that were in contest. You have been modest enough not to admit it in public, but one can imagine the enormity of the pressure you must have been under from all corners. With the calmness of true professionals and persons of unimpeachable integrity, you nominated candidates of very high quality and managed to pull off an election very well organized, smoothly conducted and, as far as I am concerned, the fairest I have been part of.

To my fellow contestants for the position of President of the Law Society and to the contestants for all other positions on offer. You were all eminently qualified to be elected President of TLS and all other positions that were in play. You fought well. That in the end you did not succeed should not be taken as failure on your part. It should all be looked at as part of the democratic process that has been part of the TLS since its inception many decades ago. I thank you heartily for vindicating the democratic process that is the hallmark of our Law Society.

Finally, to Team Tundu Lissu Sasa brilliantly led by Counsel Peter Kibatala and Jamhuri Johnson in Dar es Salaam and Freddie Kalonga and Kaunda in Dodoma, and many others too numerous to name individually. You prevailed in the courts of law in both Dar es Salaam and Dodoma when these elections were mortally threatened through the judicial apparatus. Now you have prevailed in the electoral contest here in the venerable Simba Hall. What can one say to such a brilliant constellation of lawyers other than a very simple thank you for a job excellently done?

A HISTORIC ELECTION

As I said a few weeks ago when I formally launched my bid for the Presidency of the Tanganyika Law Society, "this is the most consequential election in the history of the Tanganyika Law Society." This was the most closely watched election in the more than sixty years of TLS. People who had never heard of TLS before followed every twist and turn of this contest with keen interest.

This election saw the most dramatic and unprecedented intervention from the state and its security apparatus. President John Pombe Magufuli personally weighed in with the immense weight of Ikulu. As did Minister for Justice and Constitutional Affairs and TLS member, Dr. Harrison George Mwakyembe, who, on several occasions, threatened to disband TLS should you, distinguished members, choose a politician such as the one speaking to you now.

For the first time since TLS was created more than six decades ago, certain of our own members and elected leaders consorted with government operatives to torpedo the TLS elections which are mandated by our founding statute. For the first time in sixty two years since the Tanganyika Law Society Act was enacted, certain of our own members went to court to try and prevent these elections from taking place.

Yet, for all this, here we are today: triumphant. This unprecedented assault on the independence of our National Bar Association; the barely-concealed attack on the integrity of our electoral process, and the crudest attempts to control us, did not succeed. To paraphrase Sir Winston Churchill during the most critical moments of the Battle of Britain, if Tanganyika Law Society is to survive in the next one thousand years, the children of our children's children will say of us on this day: 'This was their finest hour.'

WHY ALL THIS FUSS?

The role and mandate of any and every national bar association, particularly in the common law world, has always been larger and wider than the simple words found in the statutes of the national law societies. Because private law practitioners are uniquely positioned at the intersection between the state and its administrative apparatus, the courts and the citizens, lawyers have always been called on as arbiters between the interests of the state, the courts and the citizens.

Simply put, it is us lawyers who keep the state at bay by preventing it from using the judicial apparatus to oppress the people. It is us lawyers who keep society from descending into chaos by mediating disputes between contending litigants in courts of law. Given this unique position, it is us lawyers who are the ultimate guardians of the Rule of Law. It is us lawyers who are the ultimate protectors of legality and a respect for rights of our people.

There was a time in the 1980s when Tanzanian lawyers had a say in the affairs of this nation. During the dark days of one party rule, when there was no Bill of Rights; when there was no independent press; when there was no right to organize and freedom of assembly; when there were no political parties other than the one you know well; when the state was the Leviathan of Hobbesian proportions, TLS

organized seminars and workshops where fundamental questions of our constitutional politics and law were debated.

It was out of these debates that TLS members such as Dr. Ringo W. Tenga, Mabere N. Marando, Dr. Masumbuko R.M. Lamwai, the late Dr. Sengondo E.A. Mvungi, to name but a few, founded the National Committee for Constitutional Reforms, the forerunner to today's NCCR-Mageuzi, to champion the cause of multiparty democracy in Tanzania.

And because these members of the TLS cared for the Rule of Law writ large, they also cared for one another and protected one another. I remember as a young man living in this town during that period how the Northern Zone Lawyers' Group, there were only 22 of them I remember, descended on Augustino Lyatonga Mrema, then the fearsome Minister for Home Affairs, when he ordered Advocates Colman M. Ngalo and the late Joe D'Souza to follow him at his Kiraracha country home to show cause why they should not be dealt with. Minister Mrema backed off immediately.

I also remember the same lawyers, taking the then Arusha Regional Commissioner Col. Anatoly Tarimo to court right here in town, for ordering the arrest of Advocate O'Hhay Sangka. Lawyers then were not only feared by the Rulers of Law, to paraphrase Chief Justice Bamabas Samatta in his excellent book. They were also respected by the community and taken seriously by the Government. They played a role much larger than their minuscule numbers.

THE COSTS OF SILENCE

Over the years, we Tanzanian lawyers have increasingly departed from this mandate of protecting Rule of Law, Constitutionalism and a respect for rights. When they should have become even more active and effective like their Kenyan and Ugandan counterparts, Tanzanian lawyers switched off from caring for the affairs of the

nation. Fearing to be labeled 'politicians', 'activists' or worse, Tanganyika Law Society and its members turned into the comfort zones of their little cubicles of law chambers and forgot about everybody else.

We were completely and conspicuously absent from the great Constitutional Review Debate of 2010 - 2015. We have been completely silent in the legislative and political developments of the past two years which threaten to render useless the constitutional order built with great sacrifice over the past two decades. We have disappeared from the national radar screens as the Rulers of Law have torn our Constitution and the Bill of Rights to shreds.

This running away from affairs of the nation, this retreat from the national center-stage into our law chambers has, by all accounts, backfired on us. Today, Tanzanian lawyers are treated no better than any other dukawalla in town. We cannot practise law if we do not have a business licence, if we have not registered business names with BRELA, if we do not have tax clearance from TRA, if we do not have letters of identification from our Mjumbe wa Mtaa.

Today, tax collectors demand of us to purchase EFD machines like any other beer seller. Today, our Chief Justice has been turned into the law enforcement agent for the TRA, for he cannot renew your practicing certificate if you cannot prove your tax bill of clean health. Yet, there was a time, not long ago, when all an advocate needed in order to practise our profession was to show his practicing certificate and his certificate as notary public and commissioner for oaths.

In the meantime, we have become inundated with, and threatened to be bankrupted with, intolerable financial burdens from a bewildering array of taxes, fees, charges and other fiscal imposts that have accompanied the administrative demands made upon

legal practitioners. Our younger members of the Bar have borne a particularly heavy burden of these fiscal imposts.

Because we have stopped caring about the Rule of Law writ large, Rule of Law within TLS has also almost completely disintegrated. Today, no one knows where the money we pay as membership or CLE fees or contributions to the Deceased Advocates Fund goes. No one knows who takes what cut of the US\$ 50 that each one of us pays annually to the East African Law Society (EALS).

Because we have stopped to denounce the crimes of the Rulers of Law for fear of reprisals, we have become easy targets for those who would to control the legal profession for their own selfish purposes. Our members have been arrested in courts while defending their clients. Others are harassed or treated with sickening indignity in law courts or police stations while trying to intercede on behalf of their clients. Arguably the largest and most famous law firm in the country has had its law offices shut down and padlocked by tax officials due to a tax dispute.

As a result, to paraphrase what I said in this same podium during the TLS Half Annual General Meeting of August-September, 2012, because we have shirked our responsibilities and failed or refused or ignored to discharge our duties and responsibilities as lawyers and citizens, our celebrations of the rule of law have become a sham; our boasted independence of the judiciary, an unholy license; our sounds of rejoicing about legality have become empty and heartless; our shouts of liberty and equality, a hollow mockery; our prayers and sermons, our hymns about separation of powers have become a mere bombast, fraud, deception, impiety and hypocrisy.

I had then told those of you who were present: "Hiding in the small-mindedness of our little law chambers, and hoping that someone else will clean up the Aeugean Stables of our constitutional mess,

can no longer suffice. As individual citizens or the professionals we take ourselves to be, we must take a stand." I want to believe, happily I hope, that by this election, you members of the Tanganyika Law Society have, at long last, decided to take a stand. That you have finally come to the conclusion that things cannot be allowed to go on as they have for many years. That enough is, finally, enough.

DIUTURNI SILENT?

If this is so, and I hope it is so, then let this be the end and a also beginning. Let it be the end of our silence, and consequent complicity in the crimes against our members and against our people. Let this be the end of our cowardly inaction in the face of the greatest threat on the existence of TLS and the independent Bar in Tanzania. Let it be the end of self-imposed blindness in the face of the most sustained and vicious assault on the Rule of Law, independent judiciary and Constitutionalism that our country has seen in a generation.

Let no one touch, arrest or otherwise harass our lawyers again when they are discharging their professional functions and duties as advocates. Let no one, however mighty, disrespect our Judges and magistrates again. And, for God's sake, let those who know better tell us why we still do not have a substantive Chief Justice, three months since the retirement of Chief Justice Mohamed Othman Chande. For it seems like no one knew when Chief Justice Chande was going to retire in order to prepare for his successor!

Let this be the beginning of addressing and solving the problems of intolerable financial and administrative burdens bearing down on our, particularly younger, members by reducing fees and other imposts. Let it be the end of the financial shenanigans that, by all accounts, appear to have bedeviled TLS for years past. Let it be the

beginning of financial probity and accountability in our finances. Let it be the beginning of a voluntary membership of the EALS and its intolerable forced contributions. Let it be the beginning for the TLS to, yes, rediscover its mission and, yes, to regain its voice.

Let me very clear, given the considerable dust that has been kicked during this election on account of my politics and positions of leadership in my political party. I am not only a very prominent member and leader of CHADEMA, I also hold positions of considerable influence in Parliament as a Member of Parliament, Shadow Minister and the Chief Whip of the Official Opposition. However, I want to assure distinguished members and the citizens that I did not contest this election in order to bring CHADEMA into TLS. And I will not bring CHADEMA into TLS for that matter.

To paraphrase John Fitzgerald Kennedy, I contested the presidential election as a member of TLS who happened to be a CHADEMA member and leader. I did not contest the election as the CHADEMA candidate for President of the TLS. Nevertheless, the questions and issues that I hold most dearest, that is to say, Rule of Law, Constitutionalism and Good Governance run across any ideological or party divides. These, I believe, are issues that are central to the legal mandate of Tanganyika Law Society. And as I stated earlier, they are very much part of our heritage.

Therefore, let me make it absolutely clear, what statements or decisions that I will make as President of the TLS will be made in consultation with and approval of the Governing Council and/or General Meeting of the members in accordance with our statutes.

CLOSE RANKS

To accomplish all these endings and beginnings, unity between and amongst members is of utmost imperative. We may not, and we shall not, always agree on what is the best way of attaining these noble

objectives. Our differences and diversities, however, should be the source of our strength, not our undoing. We should stand as one whenever one of our own is threatened or attacked or treated with indignity. We should not tolerate the fifth columnists and those who consort with the enemies of TLS and the independent Bar in Tanzania.

We should always warn ourselves of this: if Nimrod Eirehema Mkono, perhaps one of the most influential and well-connected corporate lawyers this country has ever seen, can have his law offices shuttered and padlocked, which one amongst ourselves is safe? If Mkono cannot be safe, neither can Mwanaidi Maajar, nor Charles Rwechungura, nor Tundu Lissu, nor any other lawyer and member of TLS. Therefore, unlike the biblical Cain, we have no choice but to become our brother's keeper. An injury to one of us must be an injury to all of us and that affront must be met with the ferocity of our collective might.

Since I take this to be some sort of an Inaugural Speech on my part, please allow me to take a leaf from the Inaugural Speech of President John Fitzgerald Kennedy, the 35th President of the United States, on January 20, 1960: "Let every [Tanzanian] know - we shall pay any price, bear any burden, meet any hardship, support any friend, oppose any foe to assure the survival and success of [the Tanganyika Law Society and its members and the Rule of Law and Constitutionalism in this country we call home.]"

Let a new day arise and a new, more vigorous, TLS reborn.

I THANK YOU ALL FOR LISTENING