Whose Law rules under the Rule of Law and who are the Governors of Good Governance?[1]**

The Tasks of a Journalist-Intellectual

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Introduction

I could expound on rule of law, define its virtues, caution against its misinterpretations, recommend for more seminars, workshops and symposia on how to teach rule of law to our ignorant peasantry. I could talk about the elements of good governance, the need for it in Africa, and how corruption is eroding governance. I could even make a fool of myself by asking why Tanzania needs good governance when Norway or Britain or France or Sweden does not.

I could, for the umpteenth time, recommend that the PCB (Prevention of Corruption Bureau) should be given more lawyers and its own machinery of enforcement. I could even make a "profound" suggestion that the newly established Human Rights and Good Governance Commission should not only have regional, but even district and village offices. To cap it all, I could recommend that consultants be hired to draw up funding proposals since none of these recommendations can be implemented without money. Maybe, one could agree with the Arusha Declaration, if one still remembers it, that 'money is not the basis of development', but, declarations or no declarations, only a fool dare say that 'money is not the basis of good governance'!

I am not being cynical in saying all this, because all that I have said, happens all the time. In my view, 90 percent of what happens in these fora is repetitive and useless but there is some 10 percent which is good, even though only peripheral. 'Every cloud

[1]** This short paper was first presented to the 'National Symposium on: The Role of the Media in Promoting Good Governance', March 20-21, Livingstone Hotel, Bagamoyo.

has a silver lining'. In this presentation, I want to explore the one percent of the 10 percent good part of it and ask, whether it is not high time, after a decade of donor-driven liberal reforms, to take stock and begin to question the sacred cows of liberal *mantra*; whether it is not time to do some introspection on our own role in fuelling and reproducing the liberal mythology. In this spirit, Mr. Chairman, let me speak.[2]

Media as a Mirror

Before I make my remarks on the rule of law, I want to think aloud on the role of media people, specifically journalists, in our society. Journalism is now well recognised as a *profession*. Journalists themselves feel proud to present their vocation as a profession, side by side with other professions such as law, medicine, accountancy, etc. In popular consciousness, a professional is a person who is trained and educated in specified high-level skills and governed by identifiable style of work and code of conduct, on whose advice and competence, which is obtained for a fee, a 'lay-person', meaning a non-professional, can rely. What distinguishes a professional is the level of education, a distinct mode of operation combined with a general perception and self-presentation of personal integrity, all of which together, gives the professional a high social standing and reputation, not to mention a reasonable remuneration.

I have no doubt in my mind that by all these criteria journalists are professionals and they are justly proud of being accorded that status. But there is another dimension to a journalist, which does not appear in general consciousness nor, ironically enough, do the journalists themselves identify with. This is the role of the journalist as an intellectual. The term 'intellectual' has many definitions like the proverbial definition of an elephant by the five blind men. But we can live with some working definition. An intellectual is first and foremost a thinker, that is to say, some one who depends on his/her brains rather than brawn. His/her vocation is to think; not only to think but also to think critically; not only to think critically but also to disseminate it, to communicate it, systematically. As Mao Tse-tung said, 'We should give back to the

[2] *Let me Speak,* title of an excellent book by a Bolivian woman miner Domitilla, Monthly Review Press, 1979.

masses systematically, what we get from them confusedly'. To adopt Ali Mazrui's definition, *an intellectual is someone who is fascinated by ideas.* As an aside, I must confess that as young radicals in the '60s, we derided Mazrui's definition by retorting that 'even a clown is fascinated by ideas'! But why not? It is true - and that is why many clowns, cartoonists and caricaturists are great intellectuals. Not only are they great intellectuals in the sense of being fascinated by ideas, but also great social critics who manipulate ideas in a fashion that helps the society to laugh at itself, which is another form of self-reflection and self-criticism. No wonder, it is common among artists and novelists to employ a clown or a 'mad person' to anchor critical comments. And that brings me to, what in my view, is, or ought to be, the defining quality of the intellectual - social commitment.

An intellectual is not simply a skilful thinker and performer, not simply an armchair critic but a **committed thinker, a committed performer and a committed critic** and if his or her commitment leads her to rebel, so be it. **S/he rebels**. The basic commitment of an intellectual, in the last instance, is humanistic; to work for a better, more humane and more rational society. We sum this up with a quotation from Baran:

> The desire to tell the truth is … only *one* condition for being an intellectual. The other is courage, readiness to carry on rational inquiry to wherever it may lead, to undertake "ruthless criticism of everything that exists, ruthless in the sense that the criticism will not shrink either from its own conclusions or from conflict with the powers that be." (Marx) An intellectual is thus in essence a *social critic*, a person whose concern is to identify, to analyze, and in this way to help overcome the obstacles barring the way to the attainment of a better, more humane, and more rational social order. As such he becomes the conscience of society and the spokesman of such progressive forces as it contains in any given period of history. And as such he is inevitably considered a "troublemaker" and a "nuisance" by the ruling class seeking to preserve the status quo as well as by the intellect workers in its service who accuse the intellectual of being utopian or metaphysical at best, subversive or seditious at worst.[3]

But how does all this jibe in with the journalist as an intellectual. Many a journalist will tell you that her duty is to tell the truth as it is; to disseminate facts and information as s/he finds them, not to make value judgements. That is for the readers. A more articulate journalist might even distinguish her duty from that of an intellectual by saying that a journalist tells the truth, reports facts, while an intellectual

[3] Paul Baran, "The Commitment of the Intellectual' in *The Longer View*, New York, Monthly Review, 1969, p. 14.

pursues truth, seeks truth, or, in other words, finds facts. All this is of course only partly true for you cannot tell the truth without pursuing it; nor is truth given, it is constructed. What is more, not telling the truth does not mean simply telling a lie, because you can tell a lie by not telling certain truths, or by telling a truth isolated from its context or telling a partial truth and yet, as philosophers would say, the 'truth is the whole'. You may be telling the truth if you reported that Bush won the election by the decision of the Supreme Court and Mugabe won it by rigging it. Yet, the other side of the truth is that Bush's brother as Governor of Florida was heavily implicated in the manipulation of voting procedures just as the High Court in Zimbabwe extended the election period, which technically was obeyed by Mugabe. Yet in one case, we are told, the election was rigged, contrary to rule of law, while in the other, the rule of law prevailed. Well, decide for yourselves as to who is telling the truth and what truth is being pursued and *not pursued*.

None of us can pretend that truth is neutral and facts speak for themselves. They don't. The truth or facts are *made* to speak. And the facts that speak louder are those which are *made* to speak louder by the powerful in society, and intellect workers are paid, persuaded, cajoled, threatened, and even, subtly or otherwise, forced, to make certain facts prevail over other facts.

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It is this aspect of the journalist's work, the role of the journalist as an intellectual, as a part of the intellectual body, that I wish to underline.

It is said that an intellectual body is the mirror of society; that in reflecting the jungle of inequities, ugly injustices and the ubiquitous inequalities of society, it acts as the conscience of society. But more than that, in identifying and highlighting the shoots of flowers and the pointers of the future garden, the intellectual body is among the drivers of change, change for the betterment of society in which the weeds of oppression, exploitation and injustice have been rooted out. Journalists, as intellectuals, cannot pretend to be neutral, cannot hide behind their presumably

professional creed to simply tell the truth, but must constantly, like all other committed intellectuals, ask themselves: whose truth are they telling and for whose benefit and for what purpose. It is in this context then I want to reflect with you on the concepts of rule of law and good governance, - as a committed lawyer-intellectual with, hopefully, committed journalist-intellectuals.

The Ideology of Rule of Law and Good Governance

What does rule of law mean? A simple definition of law is that it is a body of rules. Therefore rule of law means rule of rules! That is not only a tautology, but foolish, because rules don't rule. It is those who make rules, those who enforce rules, those who justify rules, those who make bad rules look good and good rules look bad; - these are the *people* who rule. So it is a set of *people* who rule and another set of *people* who are ruled. That sounds simple, a simple truth, and yet how many times we, the intellectuals, pursue, and tell, that simple truth! A century and half ago one committed intellectual, and his 'neighbour', another committed intellectual, articulated this simple truth in the following words, 'The ideas of the ruling class are in every epoch the ruling ideas: i.e. the class which is the ruling *material* force of society is at the same time its ruling *intellectual force*.'[4] For this simple truth, those two intellectuals were, and continue to be, branded as "troublemakers" and "seditious".

There is no inherent virtue or goodness in rule of law. Rule of law is part of the liberal doctrine developed by the rising bourgeoisie in Europe against feudal ruling classes of the previous age. Its goodness or badness depends on the particular circumstances of a particular society in a particular period of history. If you are ruled by your ruling class through the force of gun pointing at your head (i.e. a dictatorship), you would certainly prefer to be ruled by rule of law where your head has internalised the rules and the gun has receded into the background (i.e. democracy). Yet again, you may have a very meticulous body of rules, meticulously applied as in apartheid South Africa or Hitler's Germany, yet there is no virtue in that rule of law because the society in general does not consider it just. As Mwalimu observed in one of his speeches, '.Rule of Law is not enough for freedom; …and as we can see in Southern

[4] Marx/Engels, *The German Ideology*, Marx and Engels Collected Works, vol 5, p.59

Africa - laws can be used to suppress freedom, and to impose the most dreadful tyranny.'[5] The question we have to ask ourselves constantly is: whose rule of law, in whose interest and for what purpose. We cannot simply sing the chorus of rule of law and good governance without identifying who is setting the theme, composing the music and conducting the orchestra. In other words, who are the governors of good governance?

Following the fall of the Soviet Union, we have today a global one-party system with one mighty super-power. If one-party system on the national level was only authoritarian, the one on the global level is near-fascist, what with its military muscle, economic power and media hegemony. The tragedy is that many of our intellectuals, not only in the media, but also elsewhere, have literally surrendered their vocation to think and critique this new global "feudalism" called globalisation. How does the rule of law or good governance express itself at the global level? How do the structures of global dominance translate themselves into local economic, political and cultural slavery? What are the new forms of justifications, or ideology, for this, so-called, globalisation? We fought against colonialism and thought we had defeated imperialism. This same imperialism supported many a military dictator in the name of freedom from communism during the cold war era. With the defeat of socialism, we are now being tutored in the "rule of law" and "good governance" by this same imperialism with a new name 'globalisation', which, our leaders tell us, is here to stay whether we like it or not, irrespective of whether it is good or bad for our people. Under the circumstances, what should our journalist-intellectuals be doing? How are they to pursue the truth, tell the truth, in the interest of the struggle of our people for freedom, for a better and a more humane society? Do we simply join the chorus and celebrate with the propagandists of imperialism that we have entered a nirvana of no-ideology, no-history a là Fukuyama? Or join the so-called coalitions in the "clash of civilisations" (a là Huntington) where we hunt down our own people as terrorists, druggists, fundamentalists, and so on?

[5] Nyerere, Freedom and Development, OUP, 1973, p. 260.

In short, I am saying that we, the intellectuals, including the journalists, need to interrogate, revisit and de-mystify these new -isms - terrorism, fundamentalism, etc. - and -isations - globalisation, civilisation etc., - without fear, and subject them to ruthless criticism, 'ruthless in the sense that the criticism will not shrink either from its own conclusions or from conflict with the powers that be'.

In this presentation, I do not wish to interrogate the liberal notions of rule of law and good governance. I have done so elsewhere. Here I am only making a plea that rule of law, good governance and related constructs are very contentious ideological notions, which we need to locate within the current imperialist order; that we, the journalists, as intellectuals, need to regain our right to think for ourselves, to reassert our role of critical and committed thinkers and social critics. Journalists, who are the most visible section of the intellectual body, ought to play a conscious *avant-garde* role in this reassertion, rather than become scribes of the imperial media magnates and their local mandarins.

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