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AFRICA

EDUCATION FOR ALTERNATIVE DEVELOPMENT: THE ROLE OF PUBLIC LAW INSTITUTE, KENYA*

Oki Ooko-Ombaka**

PUBLIC LAW INSTITUTE: *The Institution*

The origin of the Public Law Institute (PLI) is to be traced in the debate which started in the Church and Society Committee of the National Christian Council of Kenya (NCCK) in 1978. The Committee's duties included the involvement of the Church in developmental activities in disadvantaged communities. Under this mandate, it was the Committee's experience that many problems encountered by the rural and urban poor in their efforts to develop their communities were legal in character. In particular, three problems were noted:

1. The lack of access of these groups to courts, administrative agencies and other forums in which basic policy decisions affecting their interests were formulated.
2. Their lack of awareness of and inability to protect their rights.
3. The general intimidation and exploitation of these groups by the better-equipped and better-off groups in society.

The NCCK formally approached the Law Society of Kenya (LSK) in late 1978, seeking the best way to face these problems. The result of this initiative was the formation and launching of PLI, a public interest agency, in November 1983 as a joint project of LSK and NCCK.

The major objectives of PLI are:

1. To establish a national legal aid and advisory infrastructure.
2. To provide legal education to the public.
3. To monitor the rule of law with a view to promoting and protecting human rights.

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4. To promote consumer protection.
5. To promote the protection of the environment.
6. To promote public interest research.

The Institute works through legally-defined machinery and institutions in its efforts to redress public wrongs or check encroachment on public interest, either on its own behalf or on behalf of interested persons or groups. The strategy for dealing with each individual matter is determined on a case-by-case basis. Such strategies include the following approaches:

1. Representations, written or verbal, to the proper authority such as ministry, department, agency, organization or industry.
2. Publication of research data and findings or opinions and other related information.
3. Educating the public regarding their legal rights and duties and the modalities for protecting those rights or discharging the duties.
4. Taking legal proceedings to protect the public interest generally or to get authoritative judicial pronouncements on contentious public issues.

The major policy-making organ of the Institute is the Joint-Policy Council composed of a board of trustees and an executive committee. The members of the council are jointly appointed by the sponsoring organizations, the NCKK and LSK. They are chosen from among the public for their devotion to public service, personal integrity, respectability and courage. The day-to-day running of the Institute is in the hands of a Director who is responsible to the executive committee.

There are many public interest issues which, by the fact that they affect large groups or the entire country, are and should be important areas for PLI intervention. Arising from the fact that resources are very limited, however, not every issue of public interest can be handled. PLI has, therefore, forged close working relationships with other organizations in trying to protect the public interest. It is also against this background that the focus of the Institute's own interventions are aimed on behalf of the most disadvantaged target groups in the country. The urban and rural poor, workers, the unemployed, women and the handicapped currently constitute, for different reasons, the most disadvantaged members of the Kenyan community. The Institute's programmes are thus appropriately focused.

The Policy Background to PLI's Educational Activities

Due to the specific demands of colonial political economy, which has been largely left intact in the post-colonial era in most of Africa, urban centres are the nerve centre of formal politics, administration, manufac-

turing and industry. This fact has led to relatively high levels of development of the economic, administrative and social infrastructures in these centres with high and increasing concentrations of people to service them or in search of opportunities and relatively high standards of living underpinned by a "modern" urban culture. Rural Africa, on the other hand, has experienced little or no official economic investment, thereby largely retaining its pre-colonial characteristics.

In static terms, rural and urban areas are two different worlds, poles apart. In reality, a dynamic but dependent relationship exists between the two worlds. Understanding this relationship is crucial if efforts to develop rural areas are to be achieved.

Agriculture is the backbone of most African economies. To the extent that it takes place almost exclusively in rural areas, these areas constitute the backbone of the national economy. A contradiction is immediately recognisable, that areas which generate the bulk of investible surpluses experience virtually no reinvestment. Put another way, rural areas subsidize the development of the urban centres. Poverty is therefore immediately identified as the first major characteristic of rurality - poverty not only as a status but as a continuing impoverisation by official government policies.

The stability and continuity of the colonial political economy depended on repression. The legal system was almost exclusively law-and-order oriented. The post-colonial continuity of the administrative structures defining this orientation in most African countries has ensured that our legal systems and the attitudes of our law enforcement officials are "colonial" or repressive. Nowhere is this fact more evident than in rural Africa. Given the fact of their largely pre-colonial culture, most rural people find the legal system more alien than do urban folks who have, at least to some extent, internalized the basic premises of Western jurisprudence defining our legal systems. Law becomes doubly oppressive in that it is not only used repressively but it is in itself ideologically oppressive. Oppression is the second major characteristic of rurality for our purposes. Here again it is oppression by government.

Taking poverty and repression as defining the parameters of any programme aimed at enhancing the awareness of rural communities, what are some general propositions that we can advance? Let us look at poverty first.

The grinding poverty facing a majority of our communities dictates that people work long hours, using primitive technology to maintain a low standard of survival. That simply is the life or death priority. It may be hypothesized from this that any intervention which diverts the people

from the important tasks of their daily existence is likely to be ineffective. Thus, an educational programme which requires participants to be away from their work for a considerable length of time may be viewed as a waste of time. Conversely, a programme which is integrated within the daily tasks may be more effective. It may be concluded that formal methods of education which largely envisage "captive" receptacles are inappropriate for generating knowledge among the urban and rural poor.

More fundamentally, an effective educational intervention must be relevant to the needs of rural communities. Relevance from a viewpoint of poverty quite clearly means that the substance of the education should be developmental, not in theory but in practical everyday terms of that community in helping its members find a way out of their poverty.

Repression is a method aimed at ensuring compliance with unpopular decisions by creating fear among the oppressed. Psychologically, repression is meant to create subservience to authority. Viewed politically, repression deprives the oppressed of their democratic rights while it "educates" them to internalize the ideology and value systems of the oppressor and it therefore creates dependence. An effective educational programme for these communities should address this double political problem. It should help prepare the participants better to protect their rights within existing institutions and procedures while also politicizing them to resist the undemocratic value systems structuring these institutions and procedures and realizing their collective power to change these value systems.

PLI's Legal Education Programme

One of the most recurring lessons of PLI's first years of operation is the fact that Kenyans are not aware of their rights. They are also ignorant of their capacity and ability to influence changes in the legal system and the operation of the legislative, executive and judicial process. In these circumstances, lack of awareness may be identified as one of the most serious limitations to justice. Legal education is thus an all-embracing concern of PLI.

Each of PLI's objectives has an integral education component. By the end of each intervention operationalizing the objectives, the individual or group benefiting from the intervention should be more aware legally and, to the extent possible, self-reliant. The actual manner in which this is achieved necessarily differs from case to case and cannot be elaborated in abstract.

Arising from the fact that the Institute's objectives are limited, its educational component cannot cover the whole spectrum of legal issues needing intervention. A full-fledged legal education programme independent of and complementary to sectoral components is thus called for.

The programme embarked upon by PLI is the Legal Education Programme (LEP). The mechanics and the dynamics of protecting the public interest depend to a very large extent on a legally-aware public. The target population must be aware of its rights, the machinery and modalities which exist for the protection of those rights, and, where there is no such machinery or modalities, the possibilities of fashioning new protective institutions and interventions. In the final analysis, the surest bulwark against infringement of public rights is a legally educated public.

Anglo-American jurisprudence is based on the principle that ignorance of law is no defence. In a country like Kenya with an imported legal system whose laws are promulgated in a foreign language and in which courts, administrative agencies and other policy-formulating forums conduct their affairs largely in a language embodying socio-cultural practices alien to a majority of the citizenry, the implication of this maxim for justice, equality and development is far-reaching. Put simply, a majority of Kenyans are legally illiterate. They thus lack the capacity to protect their interests under the law, or to use it effectively in the furtherance of their aspirations. There is need to generate legal information if the rights of the people are to be effectively protected and their hopes realized.

PLI has been overwhelmed by requests from different groups, including labour unions, women's groups, tenants, etc., for legal advice on a number of issues. The topics of enquiry have included legal assistance to the poor; rights of employees and labourers; the role of the police; the relationship between lawyers and public; issues of women and the law; the administration of justice; landlord-tenant questions; consumer and the law questions, and the relationship between customary laws and "modern" laws. These enquiries in themselves already constitute areas on which educational interventions are proposed to be mounted and they identify target populations. The Institute has or plans to mount long-term educational campaigns in these areas.

The strategies and modalities for each campaign are necessarily different. The guiding policy consideration is dictated by the nature of PLI as an organisation. It is essentially a catalyst and resource agency. To avoid the paternalistic and elitist tendencies within an organisation removed from the grassroots, PLI's policy is to implement its campaigns in collaboration with organisations brought into existence by the target groups themselves. A sequence has emerged from such collaboration. The process begins with discussions between the counterpart organisation and PLI. Joint research is then mounted to determine the legal problems confronting the target population, the level of awareness of rights, and the most effective modalities for enhancing the awareness. Educational material and interventions are produced and the campaign is launched.

Each campaign has a built-in evaluation, and the impact on the target population is closely monitored. After sufficient feedback is obtained, PLI and the counterpart organisation develop longer-term training manuals for independent use by organisation leaders and individuals.

Given the fact that PLI has been in existence for only two years, its experience is limited to two campaigns. The first concerns women's rights. The first phase consists of a national campaign under the themes of constitutional and political rights, social and economic rights, family and domestic rights and violence against women. The multi-lingual and multi-media campaign is mounted by way of posters, bus and train stickers and dissemination through churches, schools, non-governmental organisations and public offices. The posters differ according to the specificities of the area of dissemination. Succeeding phases of the campaign include announcements in the electronic media before final development of a manual. The counterpart organisation in the campaign is the Women's Bureau and two national women's organisations.

The second project concerns workers' rights and involves collaboration with the Central Organisation of Trade Unions of Kenya. It is at the research phase.

Apart from LEP, PLI established the first of a proposed three permanent legal aid clinics. "*Kituo Cha Sheria*" (Legal Advice Centre) is based in Nairobi, an urban centre. The next shall likewise be in urban centres in Mombasa (February 1986) and Kisumu (June 1986). It is, however, proposed to establish four mobile rural centres, the first in the Coast Province in September 1986.

The centres are run by volunteer advocates and supervised law students, who, by arrangement with the Faculty of Law, obtain full academic credits for their participation. It is hoped to employ one full-time advocate per centre when resources permit. A national pilot training programme for para-legal workers is planned to precede the launching of the rural circuits in 1986. PLI has great expectations for the educational and mobilising potential of the national legal aid infrastructure and para-legal workers. For the first time in Kenya, these shall be members of the community trained in the basics of law.

Conclusion

To go back to where we began, can we evaluate the emergent Kenya model of public legal education, in terms of its impact on poverty and repression? It is obviously too early to announce the impact of the only ongoing campaign on women's rights. The sponsors of the project are, however, pleased by the debate the campaign is generating. Debate is a

form of education. We would, however, want to share awareness of one serious mistake made in an experimental project in 1983, to illustrate a final point.

Having little funds but eager to test the viability of the rural circuit concept, we, together with two volunteer advocates and six law students, chose a district for our pilot. The district was chosen because of its representative character. There were, however, several equally good possibilities. The primary consideration was that the District Officer, a personal friend of the Director, offered the free use of two government Landrovers.

We mapped our circuit very carefully and had our schedule announced through churches, schools and other community outlets well in advance. The turnout to our first clinic was very large, as expected. Attendance at subsequent clinics got progressively and unexpectedly low. The reason for this, as we were to discover, was the Landrovers.

Government programmes are, within the Kenyan context, generally perceived in their dominantly law-and-order orientation. At the district level, this orientation is personified in the District Officer, that relic of colonial oppression. From the people's vantage point there had to be some catch to our "free" mobile legal aid clinics, since they were so closely aligned with the symbol of mobile rural oppression, the Landrover.

The lesson? To succeed in a repressive environment, distance yourself from the oppressor.

