Corruption, Legal Education and Change in West Africa: A Broader View of Human Rights

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"Will we ever move again?" I wondered as I sat with my knees jammed into my chin, sore from the long and bumpy ride on the wooden plank which lined the back of a "bush taxi"—the only public transport between villages in Northern Mali. The "taxi" was actually a rusty and roadworn pickup truck packed with more than two dozen men, women and children, more than I ever imagined could fit in the small, flat space between the cab and the tailgate. "Why are we stopping now?" I smiled at myself as I felt a sense of exasperation rising. Smiling was the sole way to make this overheated and overcrowded situation tolerable.

Our delay was caused by a police security roadblock. Judging from my previous experiences traveling through Mali, I knew that we would be detained for at least forty-five minutes, until the taxi driver finished joking with the police officers and bribed them to ignore the fact that his vehicle was overloaded. The other passengers seemed not to experience the frustration I felt, but rather accepted that our journey's speedy continuation depended on the officers' discretion and the driver's willingness to pay. While my own frustration stemmed partly from my upbringing in a North American culture that places a premium on time and efficiency, I was unsettled knowing that even if the officers could have written a citation or detained the driver for overloading his vehicle, they had no authority to demand a "fine" for their private enrichment.

I went to Senegal and Mali with the understanding that subjection to arbitrary abuse of authority by government officials, a common phenomenon in developing countries, can be as debilitating a human rights abuse as state-sponsored violence. This understanding grew significantly over the summer. While in West Africa, I came to understand much more graphically how those who are uninformed about the way in which a legal system operates are rendered especially vulnerable to greater abuse by that system's authorities. Both the problems I encountered and the people with whom I worked in West Africa underscored for me that knowledge is essential to personal integrity and empowerment. I learned that, although an attack on abuses of arbitrary authority must take many forms, educating people in their basic legal rights is a vital move in the battle to ensure human rights for all.

I traveled to West Africa to work with the African Network for Integrated Development ("ANID") in Dakar, Senegal. I planned to assist in the development of an urban legal aid center and to research the problems of popular access to the Senegalese legal system. Before
boarding the plane from New York to Dakar, I faced a variety of skeptical responses to my characterization of my intended project as "human rights" work. To many people my project lacked the sense of exigency that accompanies "traditional" human rights work: documentation of such abuses as torture, detention without trial, forced removals and police brutality. In fact, the governments in Senegal and Mali do commit their share of the type of human rights abuses that organizations such as Amnesty International document. However, by exploring the potential of legal aid, education and outreach as methods by which to cut back nonviolent abuses of government authority, I aimed to address a broader conception of human rights.

In my conversations and travels throughout West Africa, I regularly witnessed abuses of state authority, all of which were at least partly facilitated by the victims' ignorance of their rights. As I spoke with passengers on long trips between villages, I was struck by how little people knew about fundamentals of the legal system. Few knew how to claim basic benefits or traverse the bureaucracy necessary to obtain mandatory identification papers. The bush taxi passengers' ignorance of the law inhibited their assertion of rights nominally guaranteed them and spawned tremendous intimidation in the face of authority.

During one six-hour ride between distant villages in Mali, as we bounced along a muddy, rock-studded road, passing only animals, millet fields and an occasional farmer, our crowded bush taxi stopped in front of the chain strung between two gasoline barrels and the small roadside shack which marked a police stop. Several police officers sat on makeshift chairs in front of the shack, sporting mirrored sunglasses beneath their caps. They were engrossed in a card game, seemingly oblivious to our presence. After finishing a round of cards, two of them strolled over to the side of the pickup and demanded our identification cards. All but a few of us took this opportunity to step out of the truck and stretch, showing our papers or passports to the officers as we exited. While standing next to the truck, I turned to a middle-aged man wearing Western clothes and asked him the reason for the officers' demand. He said that Malian official policy requires all citizens to obtain identification cards and carry them when traveling within the country.

A few village women remained in the back of the pickup with their children, attempting, it seemed, to ignore the officers' demands. When the officers continued to insist on seeing the official identification cards of all passengers, one woman got out of the truck and walked with an officer to the side of the shack. She was probably no more than thirty years old, although she appeared to be fifty, weather-beaten from a lifetime of work in millet fields. She was traveling to visit her sister, according to my informative fellow passenger. She was
illiterate and spoke only a local dialect. With a baby strapped to her back, she reached into a fold of her large cloth sarong, and handed the officer some coins. The demand for identification thus satisfied, we were able to pile back into the truck and continue our bumpy course.

From the aura of routine which surrounded this woman's transaction with the officer, it was apparent that she had bribed officials before in order to escape the punishment that befalls persons traveling without identification. Judging from the complacency of her fellow passengers, it was equally obvious that others like her—villagers and farmers who work endless hours for little money—provide a steady source of income to roadside officers.

I was struck by the inequality inherent in this situation. Although she did not face any physical violence, the woman in the back of the truck was nonetheless a victim here, subjected to the conditions of Malian society in which bribes seem to be standard practice. Although paying the bribe might have been preferable to the punishment the officer could legally have imposed on the woman, her inability to remedy the problem through legal channels, if she so desired, sapped her autonomy and underscored the impact of her ignorance and power imbalance with the officer. The abuse she suffered manifested itself in the feeling and fact of a lack of control over her situation.

I came to identify knowledge as a potential remedy to this situation when I asked my informative fellow passenger why people such as this woman did not possess the papers which would enable them to avoid the officers' outstretched palms. He helped me to understand how a lack of knowledge placed this woman in a situation where she had no control. "They are frightened of the authorities and do not understand how to get a card," he stated. When I pressed him to specify what exactly frightened the women, he shrugged his shoulders and said, "They don't know. They are ignorant." When I asked him how he came to understand the procedures for obtaining identification, he explained that, as the son of a Malian judge, he knew more than most citizens about the law.

Kabu Cisse, a colleague at ANID, further elaborated the problem of legal ignorance that the judge's son had described. He explained how villagers, even in their own communities, often encounter abuse from authorities because they do not understand the law. Certain laws, he added, provide additional opportunities for arbitrary abuses of power through extortion. For example, after independence, many West African countries enacted "development legislation" aimed at quickening the pace of economic growth. This legislation, designed to protect certain natural resources, often conflicts directly with the customs and needs of small villages. Kabu and a group of other law
students sent by ANID to survey the need for legal information in rural areas found that villagers were inadequately informed about the new laws. The villagers would therefore unknowingly violate the laws governing natural resources and find themselves in land use disputes with local officials.

Kabu illustrated his point with a story of a villager who paid a fine to forestry police for cutting too many trees in a protected area and then mistakenly considered himself licensed to cut as much as he needed. When the police found him chopping trees a second time, they fined him again. Still, he did not understand that he was forbidden to cut trees in that area. He was actually lucky, according to Kabu, that the officers did not beat him. Kabu and ANID’s other student surveyors found that the lack of understanding that led to this man’s conflict with the forestry police also fostered a pronounced fear of authority among villagers in every community they visited. A villager commented to one law student that “even when we have done nothing wrong, the fear takes hold of us and stops us from expressing ourselves.”

ANID conducted its study of villagers’ legal needs and problems for the purpose of instituting a legal aid program in rural Senegal. The project designed by ANID’s directors impressed me because it is aimed primarily at empowering villagers through basic education about their legal rights.

The project’s centerpiece is a group of outreach counselors known as “parajuristes” (paralegals). Fatime Ndiaye, the program’s director, explained to me their role. Although they are not trained lawyers, parajuristes receive training from lawyers, judges and law professors in the basics of the Senegalese government and legal system. The parajuristes then undertake to transfer this knowledge directly to villagers.

One parajuriste, who had been with the program since the first training seminar in December 1986, described for me the typical outreach strategies. The parajuriste’s job involves getting to know a community—the elders, the women, the youth groups—and then “animating” meetings within the community with discussions on subjects where the villagers’ lives overlap with the legal bureaucracy, including issues of land use, property codes and family law.

In many ways, the parajuriste’s role is that of a prepolitical organizer. The parajuristes are not bringing people together for collective advocacy for change in the laws or legal system—their work precedes that kind of organization. Their job is first to introduce the very concept of rights. Many people in the parajuriste’s communities have, by tradi-

tion, come to resolve conflicts in a set pattern which accords unquestioned respect to elders. Demands by state officials, whether justified or not, are accorded similar respect. Without the concept of individual rights, the villagers cannot even consider questioning, let alone rejecting, such demands. Through the work of parajuristes, villagers can come to recognize that practices developed by generations of elders can be supplemented or replaced by other rules and styles of problem-solving. They will learn how to obtain identification papers or challenge a demand for a bribe rather than suffer the fine they have grown accustomed to paying, but they must first become aware of the possibility of alternative responses to a problem before they can consider choosing among the variety of options which they possess.

In reading ANID's progress reports and conversing with parajuristes, I was impressed with both the successes and the difficulties the parajuristes encounter while trying to bring legal education to previously isolated communities. Several parajuristes described their sense of accomplishment at helping organize villagers into groups capable of achieving goals and protection through the law. The president of a local cooperative in a Western Senegalese village lauded the parajuristes' accomplishments and affirmed the effectiveness of ANID's education strategy: "Among other things, they [the parajuristes] made us aware that we are full citizens and that we do not have to fear the authorities because we are asking only for recognition . . . of our rights."²

I learned, however, from conversations with parajuristes and from my own experiences in Senegal, that ANID's program also suffers serious limitations as a technique for empowering the citizenry. Reaching out, even with much-needed information, is not an easy task. For example, Aida, a parajuriste working in southeastern Senegal, remarked to me that she had particular difficulties in her discussions with village women. She identified the largest obstacle to her outreach effort as the women's physical exhaustion. After hauling water, cooking, cleaning, caring for children and working in the fields, the women she met with were hesitant to involve themselves in anything which seemed to require additional work. Over time, as the women began to see that knowledge regarding certain laws could benefit them directly, especially with regard to inheritance, divorce, identity cards and various licenses, they found the extra energy necessary to involve themselves in the parajuristes' work. Aida emphasized, however, that it took her and the community a long time and much effort to make the information exchange work.

My own experiences as a visitor in Senegal and as someone already familiar with personal legal rights illustrated another way in which

². Id. at 11.
legal education projects like ANID’s *parajuriste* program cannot alone address the problem of abusive authority. A tiring and jarring encounter with the arbitrariness of Senegalese officials reinforced my awareness that mere knowledge of one’s legal rights will not shield individuals from being sanctioned for insubordination by authority figures determined to take advantage of their official status. One afternoon in Dakar, I argued with a traffic officer for two hours because I refused his extortionist demands after he stopped my friend and me to check our vehicle’s registration. When we demanded his badge number, as was our legal right, he refused to provide it. His sheepish expression and stumbling excuses revealed his awareness that he had stopped us without lawful cause. He threatened us with punishment for disobeying an officer and finally released us only after it became clear that we would not pay.

Indeed, even with knowledge of her rights and an identity card in hand, it is not certain that the woman in the bush taxi could protect herself from the pressure to pay bribes, given the slow pace and quietly acknowledged corruption that pervades much West African judicial process. The continuing corruption in the system maintains a vicious circle in which ignorance feeds abuse of power and abuse of power contributes to a feeling of powerlessness: the woman becomes not a player in the system, but merely a pawn, left unprotected from abuse by those granted power to be players.

Similarly, bush taxi drivers with whom I spoke were well aware that they were not legally obligated to pay off the officers who stopped their vehicles at roadblocks. They assured me that bribery was simply the way things functioned and that challenging the system single-handedly was not realistic. Because the officers are rightfully there to maintain road security, the drivers either had to negotiate a manageable payment or challenge the officers’ actions through government channels and face additional delays which would completely usurp their daily earnings.

Nonetheless, as several West African lawyers and judges suggested to me during a series of interviews, basic knowledge does provide some support for those trying to avoid succumbing to corruption. When people possess knowledge of the legal system, they are able to obtain identity cards and partially protect themselves from the upturned palms of checkpoint guards. When villagers understand what trees they may legally cut and which animals they may legally hunt, they can avoid the costs and dangers inherent in otherwise inevitable conflicts with officers. Most important, as citizens come to understand the laws which affect their lives, and any legal processes which may be available to them, they might begin to lose the fear of authority which presently inhibits their ability to challenge arbitrary abuse.
The conclusions I brought home from West Africa constituted an expanded understanding of reflections formed in law school the previous year. In Cambridge I had studied cases for my criminal law class in which police officers took advantage of suspects' lack of legal knowledge to extract confessions and obtain evidence. In a clinical program I had represented a client whose limited understanding of the law placed her at risk of abuse by her landlord. In West Africa my opportunity actually to witness the authoritarian abuse of people uninformed about the law heightened my understanding of how ignorance silences people and prevents them from participating effectively in their own communities. I saw firsthand that torture and summary executions are not the only way for a government to abuse its citizens, but that the potential for human rights abuse also exists wherever citizens lack knowledge of their legal rights. I was inspired by ANID's effort to protect rights through the dissemination of knowledge, and I returned to the United States more convinced than when I left that increased investment in legal aid and education both here and abroad, while insufficient by itself to protect personal integrity, is a necessary step in the advancement of human rights.

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