LAW AND ACCESS TO JUSTICE: THE RHETORIC AND THE REALITY

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I. INTRODUCTION

When I received the invitation from good young friends of *Kituo cha Katiba* in Kampala, to make a presentation at this regional conference, my first thoughts were to decline politely. I did not wish to attend another conference, write another academic paper on a theme which has been sufficiently discussed, sufficiently conferenced on and sufficiently written upon by academics, including myself. Yet inside me I felt the fire and anger to say, to talk and to converse passionately on my, over three decades of, real flesh-and-blood experiences at the podiums of teaching, where justice is supposedly theorized upon, and at the bar of courts, where justice is supposedly dispensed by the practitioners of that great, old, noble profession - The Law.

My real experiences run counter to these suppositions, particularly the experiences of the last post-cold war decade. Those flesh-and-blood victims of injustice in search of justice, whom I represent in courts and where I meet the gentlemen of the bar and the bench, tell me very different stories about the "noble profession". I felt it is these stories that need to be felt, told, understood and theorized upon.

I must make one thing clear. My experiences are local and parochial, in and about Tanzania. I make no pretence about their representative character nor do I lay any claim to generalizations of continental or epochal proportions. Yet I have no hesitation in saying that many of these experiences have echoes and parallels in the East African region, if not the whole of Africa - notwithstanding differences in flavour and nuance. I make this explicit in advance and plead "guilty" in anticipation to a charge by global intellectuals of ghettoizing scholarship and learning. Once upon a time, activist intellectuals used to say: "Think globally, act locally". I do not know what global intellectuals say on that score these days. But I know that these days they are sermonizing to us to give up both thinking and acting. And that is exactly what I am angry about and agonizing over in this paper in the context of the experience in Tanzania. If that is ghettoizing scholarship, so be it.

I have written the paper in an unconventional manner. Section I starts with a real life anecdote of a legal aid matter I prosecuted some twenty years ago as a newly enrolled young advocate. I can now tell, with the wisdom of a lot more cases that I have done since, that I could have picked on virtually any case and arrived at virtually the same conclusions. It is typical, representative and fulsome, apply, if you will, any test that you may, of random sampling and statistical tabulation. Real-life injustice is not as complex to recognize as the pundits make it out to be, nor do you need your computer to click 51% of incidence of injustice before you can say it is prevalent in our society.

Section II, with more illustrations and anecdotes, draws lessons as to the actually

existing social and judicial context in which we are called upon to reflect on issues and problems of law, access to justice and training of lawyers. Without such context, I venture to say, our discussion of pedagogical methods to produce relevant, responsive, skillful and socially responsible lawyers (as the addict from the organizers of the conference have asked us to discuss), would be both abstract and futile.

It is within this context then that I discuss the issues pertaining to legal education in Section III of the paper. Once again, as in Section I, I begin with narrating real-life experience of teaching and learning law at the Faculty of Law of the University of Dar es Salaam. In the true tradition of that Faculty, for which it once became famous, and of which it was once upon a time justifiably proud of, I treat my subject matter in the Historical and Socio-economic Context.

Finally, I draw a few lessons from that experience in the concluding section. It is an angry conclusion. Having been a part of that whole experience, the anger is directed as much to myself as to others. It is a self-chastisement, if you like. The target of the anger is the ease and remorselessness with which we have surrendered the valuable lessons of that experience at the altar of globalization; the gullibility and naiveNte with which we have attached ourselves to the apron-strings of globalizes of our lives and gobblizers of our villages in the name of the so-called global village.

We need to reflect on how much of our experience is *passeN* and how much of the globalization talk is "new". My conclusion is that globalization is not even a case of old wine in new bottles. We are being served with the illusion of new wine in new bottles, when neither is new. It is the same old wine in the same old bottles - imperial injustice.

II. THE SOCIAL AND THE JUDICIAL CONTEXT OR THE TALE OF THE NEEDY AND THE GREEDY

A. In Search of Justice: The Saga of Mzee Ahmed Kondo

It was in 1979. There was an outbreak of cholera. Many regions in the country were quarantined. I was then a member of the Council of Tanganyika Law Society. One afternoon, as I was researching in the legal aid files of the Law Society in its rickety old office at Makunganya Street, a ragged shirted, bare footed, short, thin, oldish looking person walked in.

Mzee Ahmed Kondo, as I called him then and as I call him now,[1] came from a village in Morogoro region. He was carrying a letter from the Chief Justice to Law Society requesting the latter to give him and his 11 colleagues legal assistance. Mzee Kondo narrated his whole story to the last detail, militantly and confidently, an attribute which

[1]. It only dawned on me recently, when I met Kondo again after twenty years, that he could not have been old when I first met him. His "oldish" look then must have been more a sign of tiredness and exhaustion from hard manual work than evidence of age.

impressed the zeal of the then young radical. Kondo and his colleagues were peasants. They had been employed temporarily between September 1974 and January 1975 by the Regional Water Engineer to lay water pipes. They were terminated without being paid terminal benefits. After much haggling with a labour officer, who, Mzee Kondo believed, was indifferent to their plight, they filed a case in a Resident's Magistrate's Court. They lost. Undaunted, Kondo went hither and tither complaining. Eventually, he travelled to Dar es Salaam and complained to the Chief Justice. The Chief Justice discovered that the whole case was a nullity. Since the Regional Water Engineer was a Government department the case ought to have been filed against the Attorney General in the High Court. He set aside the judgement of the lower court, extended time to file a fresh suit and requested the Law Society to assist the indigent complainants.

I took the legal aid brief on behalf of *Ahmed Kondo and 11 Others*. The plaint was prepared overnight. Ahmed Kondo had to get signatures of all his colleagues[2] some of whom had moved to far away places like Ifakara and other, then quarantined, areas. Undeterred, Ahmed Kondo set on his journey and came back after two weeks with a crumpled document, the plaint, duly signed in hesitant writing or thumb printed. Kondo had obtained a permit from the regional commissioner to enter quarantined areas. He had bussed and walked to reach his colleagues. He said, and continued saying without let or despair, that he was fighting for justice.

The case was filed. As we prepared for the hearing, we had to overcome another hurdle. There was no money to provide for the transport of witnesses to Dar es Salaam. I made a request to the High Court that the case be heard in Morogoro during criminal sessions by a sessions judge. The courts, at the time, were sympathetic. The request was granted. I traveled by bus and stayed at a friend's house. The friend, himself a dedicated young militant, cycled me to the court, in my black robe and all. Impressed as I was by the "ragged shirted philanthropist,"[3] I put him in the dock as the star witness on the plaintiffs' side. I let him narrate his story in his usual militant and detailed manner. Several times, an otherwise patient and soft-spoken judge, intervened ordering P.1[4] to be relevant.

Then came the real drama of the trial, cross-examination. A young state attorney, former student of mine in labour law, tried to show through his legal skills, not only that P.1 was inconsistent and illogical, but a liar. Kondo's protestations about seeking justice had no relevance in law, he coolly declared. I could see the judge grinning under his chin. Ahmed Kondo, a liar! I was enraged. But what could I do. Civility, propriety and court etiquette

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[2]. I could have perhaps filed a representative suit but, as a young lawyer, I did not want to make any technical mistake. Representative suits were not very familiar then. Later we did successfully file such actions in legal aid matters.

[3]. This is a paraphrase of the famous early twentieth century working class novel by Robert Tressel entitled *The Ragged Trousered Philanthropists*.

[4]. This is how a human witness in court is disembodied of all humanity in a number.

require that I stay dumb and let the "majesty" of law take its course.[5]

The plaintiffs' case was that they were employed as monthly workers at a wage of shs.340/= per month. The defence was that the plaintiffs were employed as casual labourers at shs.13.15 per day and, therefore, not entitled to any terminal benefits. I, or, more correctly, my client, lost the case. Lawyers do not lose a case. Clients do. Lawyers only win cases.

Ahmed Kondo was not subdued. I was. He wanted me to appeal. We did and won it on a point of legal interpretation. That was on 8th March 1982, five years after termination and three court cases, one of which aborted. The plaintiffs received a month's pay in lieu of notice, which together with interest, amounted to a total of around T. shs.4000/-. This was a little more than the costs awarded to the successful party, which went to the Legal Aid Committee.

I was next to meet Mzee Ahmed Kondo ten years later. As a chair of the Presidential Commission of Inquiry into Land Matters, I was visiting his village. I spotted Kondo raising his finger eager to speak. A district officer moderating the meeting ignored him. I intervened and let Kondo speak. He was his usual self. Militantly, he criticized village and district authorities for "grabbing" village land and allocating it to big shots from town.

Another decade passed before I met Kondo again. This time he traced me to my office, sorry, law chambers, in the city. The clerk to the chambers told him that if he wanted legal aid he would have to go to the legal aid office at the University. Kondo is not a person to be easily deterred. He would not take "no" for an answer. He wanted to see me. Period. The clerk called me at home and put through Ahmed Kondo. This time he had filed a case in a primary court for trespass over his land by some well-connected people. He wanted me to represent him. He had no faith in the primary court and wanted his case to be heard in the district court where he could retain an advocate. I advised appropriately as to the competent forum in matters involving unregistered land.

Mzee Kondo promised that he would come back when the matter was finalized in the primary court to seek my assistance on appeal. I have no doubt he will keep his promise. It is more doubtful, though, if I could keep mine, now that I have private chambers where hangs the stupid motto: "Lawyer's time is money!"

B. The Lessons of Ahmed Kondo

The narrative of Ahmed Kondo is not atypical. Some of the many other anecdotes that I will

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[5]. The following passage from Gerry Spence strikes a deep chord in me:

> To prepare mentally for it, I concentrate on the justice of my client's case, on my anger. I cherish it, contain it, feel it. Anger is the fuel of the fight, the life force of the trial. If lawyers cannot feel their own anger arising out of the injustice imposed upon their client, how can they expect the jury to feel it and to render justice? In the courtroom, my opponents feel my anger, know my physical presence, and sense my commitment to my case; … .

See, G. SPENCE, WITH JUSTICE FOR NONE 43 (1990). When I saw this passage, I showed it to my partner who often taunts me that my angry behaviour and passion in court "is a big joke."

recall in this presentation tell a similar story. And no doubt, as least some of my learned colleagues present here, who *feel injustice* rather than simply *think law,* may remember similar tales. The lessons to be drawn from the saga of Ahmed Kondo for the purpose of our presentation on 'Law and Access to Justice' are not new, but, as always, profound and inescapable. They need to be retold constantly because it is in the interest of the powers-that-be, and their keepers like us lawyers, to conveniently forget them, or arrogantly, albeit thoughtlessly, brush them aside.

The first lesson is that no discussion, articulation, conceptualization and evaluation of the machinery of justice has any meaning unless it centrally addresses the question of accessibility to justice, or lack of it, of the likes of Ahmed Kondos. The large majority of our people who suffer from injustice are the working people, the ragged shirted and bare footed Ahmed Kondos. Just as a system may be judged by the character of justice it delivers, so the character of justice it dispenses may be judged by the accessibility of the disadvantaged and the poor to the machinery of justice. The training of our young lawyers too must ultimately be judged by whether *they feel the injustices suffered by the majority of our people* or are simply trained in legal skills to manipulate the law for their paymasters.

The second lesson is that the system of dispensing justice is heavily pre-loaded against the likes of Ahmed Kondo. There are *systemic biases* and *non-systemic constraints*, which militate against the interests of the disadvantaged. In the era of the dominance of neo-liberal buzzwords of marketization, rule of law, good governance and human rights, it may be foolhardy to say it, but some one has to be foolish enough to remind us that bourgeois law, as always, is a harbinger of *parochial class*, and not *universal human* justice. That is in the nature of (bourgeois) law. The juridical ideology revolving around the notions of equality, rights, rule of law etc. is the quintessence of the class domination of the bourgeoisie.[6] Yet, these are presented and accepted as universal values. It was a great achievement of the European revolutions to embody the class ideology of the bourgeoisie in the *juridical form* and hegemonize it globally. The juridical ideology of the Western bourgeoisie may not have attained total global hegemony, but, it seems to have attained global dominance, at least for the time being. Under the circumstances, can we really train socially responsible lawyers if we do not critically examine the nature of law and the system of justice that we are operating with?

The majesty and mystique of law, its formality and authority, are systemically built-in the institutions, practices and procedures of law. The paraphernalia (wigs and gowns, the echoes of 'your and my lords' reminiscent of the feudal era, technical and often incomprehensible procedures, the use of alien language, etc.) not only are meant to strike fear (and respect born of fear?) in the likes of Ahmed Kondos but are alien to the cultures

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[6]. *See,* B. FINE, ET AL. EDS, CAPITALISM AND THE RULE OF LAW (1979); Y. Ghai, *The Rule of Law, Legitimacy and Governance, in* 14 INT'L J. SOC. L. (1986); S. Picciotto, *The Theory of the State, Class Struggle and the Rule of Law, in* MARXISM AND LAW (Beirne & Quinney eds, 1982); I. Shivji, *The Rule of Law and Ujamaa in the Ideological Formation of Tanzania, in* 4 SOC. LEGAL STUD.(1995); and E.P. THOMPSON, WHIGS AND HUNTERS (1977).

and practices of our people. Needless to say, through their training, learned members of the bench and the bar and court functionaries and law students have internalized these as the only way to attain justice. No wonder, this is not the kind of people who either inspire confidence or trust in, or are seen by, the large majority of our people as just, fair and sympathetic dispensers of justice.

The analysis of the majesty and authority of eighteenth century English law and its capacity to instil fear and respect for the propertied[7] may not in small detail resemble "our" law, but it can hardly be refuted that in principle modern law plays the same role of protecting and mystifying the close relation between property, power and authority. The following description by Douglas Hay of the eighteenth century assizes in England (equivalent to our High Court sessions held in small towns), with appropriate adaptations could well be the description of the holding of criminal sessions in Ahmed Kondo's country town, Morogoro:

> The assizes were a formidable spectacle in a country town, the most visible and elaborate manifestation of state power to be seen in the countryside, apart from the presence of a regiment. …
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> In the court room the judges' every action was governed by the importance of spectacle. Blackstone asserted that "the novelty and very parade of … [their] appearance have no small influence upon the multitude": scarlet robes lined with ermine and full-bottomed wigs in the seventeenth-century style, which evoked scorn from Hogwarth but awe from ordinary men. …
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> Within this elaborate ritual of the irrational, judge and counsel displayed their learning with an eloquence that often rivaled that of leading statesmen. There was an acute consciousness that the courts were platforms for addressing 'the multitude'.[8]

In Tanzania at least, the full-bottomed wigs were abandoned in the immediate fervour of the independence period, but the robes (minus the "unaffordable" ermine lining!) and the parade mounted by a military regiment, often the hated Field Force Unit (FFU), is very much there. I would not be surprised if in the newly found neo-liberal worship of The Law, even the wigs are returned just as the advocate's collars have been restored.

The other practice calculated to mystify law and instil fear in ordinary folks is the art of cross-examination. Somehow our young and old lawyers seem to believe that the art of cross-examination rests on proving the witness a liar. And to do this, they would not spare even the basic human dignity of a human person in the dock. Listen to this anecdote.

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[7]. D. Hay, *Property, Authority and the Criminal Law, in* ALBION'S FATAL TREE (D. Hay et. al., 1977).

[8]. *Id.,* at 27-8.

The Legal Aid Committee had granted legal assistance to a lady clerk who had stood for parliamentary elections in 1980 and lost. Her opponent was a formidable politician and a wealthy person who had always won his seat in the last three general elections. He had retained a leading senior counsel to defend him.

In his cross-examination, the defence counsel embarked on a line of questioning calculated to attack the character and credibility of the petitioner-witness. He asked her about her family life, her husband and the number of children. He began to direct his questioning to show that she had abandoned her sick husband, that a supporter of hers was her boyfriend and that her husband did not father some of her children. I was enraged and was up on my feet to object. The judge only gently told the defence counsel: "Spare her that ….." .

I could not contain my anger and ended up venting it on a piece of paper:

Dirty Professions
The lawyers' profession
Like another ...
As old,
As dirty,
Even less honest.

One sells body
The other brain
One is forced
The other chooses

Both should go
But first the gentle-man-eater's
Before the needy mother's
And sister's.

In spite of such humiliation that procedures and practices in court subject ordinary people to, one cannot help drawing inspiration from their constant persistence, patience and the fight to retain their basic human dignity. Listen to this exchange between the same lady witness, who had been given legal aid, and the senior defence counsel.

Counsel: You have dared to come to this court and tell lies because you have been given a *free* lawyer. ("*umepewa wakili bure"*).

Witness: And you dare to tell that lie because you have been *paid* to do so.

I am not sure, though, if my current cell phone carrying freshmen would find this inspiring.

Then there is the third lesson related to non-systemic yet formidable constraints, which not only deny the disadvantaged access to courts but deny them justice as well. *First*, there is the issue of *legal representation.* Lawyers are the most expensive and greedy lot. The poor are in no position to retain their services. The stereotype image of lawyers as dishonest, unethical, self-serving, arrogant and greedy is prevalent in many societies but, is even more plausible in ours, where lawyers form a tiny elite in a mass of poor masses. In my practice, I have been told umpteenth time by poor "clients" that they wanted to change their previous lawyer because they suspected that he/she had been bought off by the opposite side. In the midst of such poverty, where would the poor find the wherewithal to retain a lawyer to fight for justice through law? And even if, having denied themselves other necessities of life and found the fees, where would they find an honest and ethical lawyer to get them justice?

In their youthful idealism, many a young lawyer has been attracted to voluntary legal aid schemes, which I will discuss in the next section. But the supply of young enthusiasts is no match, in quality or quantity, to the great demand for legal representation. And as I will show in the next section, even the youthful progressive idealism of the 70s and 80s has been mutilated by the current wave of unbridled search for money. In these circumstances, legal aid schemes become another means of raising donor funds and a means of learning the tricks of the trade to enable entry into private, more lucrative, practice. I often find myself appearing with my former legal aid colleagues, or young lawyers who started their practice defending workers, on the opposite side representing employers and big corporations.

Secondly, there is the intractable problem of *inordinate delays* in courts; and *corruption* and *unethical behaviour* at all levels of the legal machinery. There is no greater hypocrisy than in the juridical saying sung endlessly, "justice delayed is justice denied." Delays are not some statistics. They are engraved in the blood and tears of the living poor. They are heart breaking. Take the following culled from my own personal experience.

1. Scarion Bruno was arrested on 23 December 1981 on suspicion of fraud. He was kept in remand for three days before he was sent to court. He was refused bail and was remanded in custody until 11 January 1982. While in custody he was interrogated during which he was bitten severely. One of his interrogators hit him with a pistol butt hurting his eye. He was denied medical attention. When he was finally released from bail he went to Muhimbili where he was admitted for a month. The doctor diagnosed that he was suffering from an ulcer in his right eye and had lost all vision in that eye. His injury was equivalent to 30% permanent incapacity. At that time Bruno was 38 years old.

   Around June 1984, Bruno sought and was given assistance by the Legal Aid Committee of the Faculty of Law of the University of Dar es Salaam. Correspondence between the Committee and the Attorney General's office ensued. In December 1984, the Committee filed a plaint in the High Court but had to await

consent from the Attorney General's office before the case could proceed. More correspondence ensued. While still waiting for the AG's fiat, Bruno 'protested' with his life. He died in September 1987.[9]

2. 300 workers of TAZARA had been made redundant in 1982. The Legal Aid Committee took up the case of *Hamisi Ally Ruhundo and 115 Others* with the Permanent Labour Tribunal (now the Industrial Court). After two years of a gruelling trial, they won. The order was that they should be re-instated. The employer went on review to the High Court. The employer won. The workers, again through the Committee, took an appeal. They succeeded. That was in 1986, almost four years since their termination.

   Their other colleagues, *Bastitino Lubida and 183 Others* followed suit. Again represented by the Committee, they went through the Permanent Labour Tribunal. They won their case and were re-instated but their militant leader, Bastitino Lubida, was not there with them to celebrate victory. He had died of malaria just the night before.

3. Sometime in November 1993, *the Bank of Tanzania made Saidi Marinda & 30 Others redundant*. Their grievance was eventually heard by the Industrial Court. They lost. A young lawyer, attempting an entry into the profession, took up their matter on judicial review to the High Court. Workers won. The Attorney General appealed to the Court of Appeal but later withdrew. The Bank then stepped in, applying for revision. After some seven years the matter is still in court. Meanwhile, their leader Saidi Marinda, threw in the towel. He died of malaria in March this year (2000).

True, the slow moving (and corrupt) machinery of justice is "impartial" in its treatment of cases. Delays and corruption equally affect the cases of the rich and the poor litigants. But there is no equality of suffering here. For one, the rich and the powerful have the means of speeding up and slowing down cases as they wish. The means are called "speed money". For many of them, litigation is an extension of business by other means. Costs of delays in litigation (including "speed money") are as much built-into their profit margins as other risks. Here too the damning epitaph of Anatole France on the majestic impartiality of The Law is equally applicable: "The law in its majestic impartiality forbids rich and poor alike to sleep under bridges, to beg in the streets, and steal bread."

III. TRAINING IN LAW: A TALE OF TWO PERIODS AT THE UNIVERSITY OF DAR ES SALAAM

[9]. *Adapted from* I. SHIVJI, STATE COERCION AND FREEDOM IN TANZANIA 72-3 (1990).

The University College, Dar es Salaam was established by the then Legislative Council in February 1961 under the inspiration and leadership of Mwalimu Nyerere, who was then the Prime Minister.[10] The first faculty to begin functioning was the Faculty of Law. Professor William Twining gave the first lecture to 14 students on 8th October, 1961 exactly two months before Tanganyika's independence. Formal association with the University of London negotiated in 1961 ended in 1963 when the University College, Dar es Salaam became part of the University of East Africa, incorporating the Makerere College in Uganda and University of Nairobi in Kenya. Until 1970, when the three universities became independent entities, Kenyan and Ugandan law students used to be trained at the Dar es Salaam Faculty of Law.

Since its inception, the Dar es Salaam Faculty of Law has been a hotbed of debates and discussions on the orientation, teaching and learning of law. Although it is true that these debates spilled over to other faculties and became university wide discourses, it is remarkable that during the first three decades the law faculty was either the initiator or the harbinger of the debates.[11]

For the purposes of this presentation, I have periodized the orientation and approaches to legal education into two broad periods. The first period (1961 to 1990) was informed broadly by the historical and socioeconomic approaches while the second period (beginning with the 90s) marks the current market or "globalization" orientation. This is not necessarily the most suitable periodization because within, for example, the first period there were fundamentally opposite trends, which I will discuss presently.[12] But I agree and adopt Tenga's argument that all these trends (nationalist, neo-traditional, modernization, sociological etc. and Marxist) had one thing in common: they argued for understanding and teaching of law in a historical, social and economic context as opposed to positivist, doctrinal approaches.[13] Tenga observes:

> It is … obvious that the kind of approaches that grew at Dar es Salaam had one similarity - their alleged defence of nationalism. Hence the label Historical, Social and Economic Context held true to all of them.[14]

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[10]. G.M. Fimbo, *Legal Education in Tanzania, in* LEGAL SCHOLARSHIP IN AFRICA (Marco Guadagni ed., 1989).

[11]. For a review of University debates, see I. G. Shivji, *Tanzania: The Debate on De-linking, in* ADJUSTMENT OR DE-LINKING? THE AFRICAN EXPERIENCE (A. Mahjoub ed., 1990).

[12]. For a different periodization, see C. Mahalu, *Three Decades of Law in Context Approach, in* LIMITS OF LEGAL RADICALISM (I. G. Shivji ed., 1986), at 83-94.

[13]. R.W. Tenga, *The Historical and Socioeconomic Approaches in Learning the Law: Dar es Salaam and 3rd World Perspectives in Jurisprudence, in* Shivji, *id.*, at 95-116.

[14]. *Id.*, at 110.

Nyerere himself in his inauguration of the Faculty of Law in October 1961 set the nationalist agenda. He made out a case for an African-oriented legal education which should be relevant to the needs of the people of Tanganyika and "our" lawyers should "not only appreciate that law is paramount in our society, they must also understand the philosophy of that law."[15] In short, Nyerere argued for a nationalist, relevant and anti-positivist legal education.

Let us now look a little more closely at the first period.

A. The Historical, Socioeconomic Approach

In the immediate post-independence period, the Faculty of Law was manned mainly by expatriate young lecturers, who found the nationalist agenda amenable to their own youthful anti-positivist idealism.[16] Nyerere's nationalism, which was essentially anticolonial, had no difficulty in finding favour with not only liberal American modernizers but also anti-liberal radical teachers. In an autobiographical essay, Picciotto, one of the few well-respected expatriate lecturers among the then hotheaded radical students, captures the atmosphere thus:

> The Ubungo campus had been organised and newly-built in the best British colonial tradition, by ex-DO.s with a strong, paternalist and Christian concern for Africans. To this was added a significant neo-colonialist element, since British resources were no longer sufficient to sustain such enterprises alone, and aid was offered from the overflowing coffers of the more prosperous nations, above all the USA, but also West Germany and even Scandinavian countries. This produced an amazing and bewildering cultural mixture, which although it was almost exclusively composed of western expatriates, seethed with contradictions and conflicts. The egalitarian Americans and Scandinavians reacted with amusement and horror to the remaining colonial trappings such as white-gloved domestic servants and flapping knee-length white trousers. Some of those with a British background turned renegade and "went native" in various more or less eccentric ways, and their breaches of propriety resulted in their exclusion from the closed but thinning ranks of those who still tried to uphold "decent" white values. Lurking beneath these cultural conflicts were half-submerged *political issues about imperialism, capitalism and socialism*

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[15]. J.K. NYERERE, FREEDOM AND UNITY (1967), at 130 et seq.

[16]. *See,* W. Twining, *The Camel in the Zoo, in* Shivji, *supra* note 12, at 15-25; Y. Ghai, *Legal Radicalism, Professionalism and Social Action: Reflections on Teaching Law in Dar es Salaam, in* Shivji,*supra* note 12, at 26-35; and S. Piccioto, *Law, Life and Politics, in* Shivji, *supra* note 12.

and the role of education and the University.[17]

The issues and conflicts embedded in the contradictions of a neo-colonial formation with a radical nationalist posture came to a head in the famous anti-national service student demonstration of 1966 which resulted in the expulsion of some 80 per cent of the student body by then Chancellor Nyerere (Coulson[18] and Peter & Mvungi[19] give a different, and very enlightening, interpretation than the one traditionally accepted by dominant scholarship). A few months later, the ruling party announced its socialist manifesto called the *Arusha Declaration*. This raised new terms of making the university education not only relevant but also socialist-oriented.

The Arusha Declaration legitimized exposure to a wider world-wide discourse on class struggle, socialism, anti-imperialism and construction of a national economy, thus taking University debates beyond the limited paradigm of Nyerere's supra-class, social-democratic project embedded in the Declaration. For the first time, the discourse on the role of education and the university began to shift from the boardroom to barricades, with all its twists, turns, intolerant dogmatism and adventurist infantilism, small victories and many defeats. Suffice it to say that the upshot was the organization of an interdisciplinary course in the Faculty of Law called the *Social and Economic Problems of East Africa* under Sol Picciotto.

The greatest strength of this course was that it exposed the students—both the freshmen of 1967 as well as the "Diaspora" who had been readmitted after being banished in 1966—to original Marxist and radical literature such as Fanon, Nkrumah, C. L. R. James, Malcom X, etc. This provided a necessary theoretical grounding to the idealist student's vision of a liberatory and emancipatory project. Increasingly, students took positions that the very process of education ought to be a process of, and for, liberation. Thus developed struggles *from below* for changes in curriculum, content and methods of delivery of education. Once again, law students where in the lead. To the chagrin and surprise of liberal radicals and sociological 'law and development' American lecturers, some of who had prided in providing an alternative to the positivist school (not without some justification), the target of student struggles were precisely the liberal/law-and-development lecturers. In the Second Memorandum of the Student Vigilance Committee, law students proclaimed their battlecry thus:

As it was stated in our first memorandum, the real issue at stake is a

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[17]. Picciotto, *supra*, at 39 (emphasis added).

[18]. A. COULSON, TANZANIA: A POLITICAL ECONOMY 224 (1982).

[19]. C. Peter and S. Mvungi, *The State and Student Struggles, in* THE STATE AND THE WORKING PEOPLE IN TANZANIA (I.G. Shivji ed., 1986).

> fundamental one concerning the ownership of this University College whether the college will ultimately belong to the people of Tanzania and East Africa or to imperialism. The students maintain that at present this University College is controlled by and for the interests of imperialism. The students further maintain that as long as neo-colonialist expatriate lecturers constitute a majority of the teaching staff and they are allowed to impose their ideology to the exclusion of socialism, as long as they decide what should be taught and who should teach it, then the University College will remain a dangerous stronghold of counterrevolution and imperialist subversion against socialism in Tanzania … From this premise, it is obvious that the struggle has already outgrown the Faculty of Law where it started, just as it has already outgrown the New Curriculum issue which sparked it off. In short, it is part and parcel of the anti-imperialist struggle.[20]

Student struggles helped to differentiate between the nationalist/liberal and the socialist/Marxist trends within the socioeconomic approach. The historical, socioeconomic approach even attained official recognition as University Calendars and statutes required law to be taught from that perspective. The mission of the Faculty of Law was officially to produce a "society conscious lawyer". Nonetheless, as both sympathetic and hostile critiques have observed,[21] the translation of the historical, socioeconomic approach into practice was hardly debated, much less operationalized.

With many a dogmatic lecturer, the method found expression in reductionist base-superstructure formula, five modes of production and sloganeering around global "multilateral" imperialism, neo-colonialism, exploitation etc. For others, it created genuine pedagogical and practical dilemmas as to how does one combine the revolutionary standpoint on The Law as an oppressive instrument of the ruling class with the explicit mission of imbibing in a law student a progressive, pro-people standpoint. Those who saw themselves as no more than radical liberals as well as those who considered themselves Marxists, openly and honestly, admitted the dilemma.

Yash Ghai,[22] while admitting the strengths of Marxist perspectives on the understanding of the role of law in perpetuating the *status quo* for the propertied and the powerful, at the same time argued that these general perspectives did not sufficiently and adequately explain the specificity of law. Even more seriously, they did not provide answers as to whether, and how, a lawyer was to use law towards progressive social change. At the

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[20]. *Quoted in* I.G. Shivji, *Introduction: Transcending the Limits, in* Shivji,*supra* note 12, at 13.

[21]. *See,* Mahalu, *supra* note 12; Tenga, *supra* note 13; and I.G. Shivji, *Within and Beyond Legal Radicalism, in* Shivji, *supra* note 12.

[22]. *Supra* note 16.

level of training, Ghai poses a tension between training a radical critical lawyer, who would *understand* The Law on the one hand, and a legally skilled lawyer, who would protect the interests of his client/society on the other. In his own words:

> An enduring difficulty is institutional. Although the great social theorists were not primarily lawyers and several social scientists since have made valuable contributions to the radical critique of the law, the primary responsibility in Africa has fallen upon law academics; and indeed it is everywhere that law academics, more aware of the precise mechanisms of the law, who will have to undertake the detailed explorations of how law sustains, or can undermine, privilege. Yet such an enterprise does not fit well with what are perceived as the primary responsibilities of law faculties—training professionals, systematizing doctrinal knowledge and thus reproducing the legal system (which is the object of the attack). Even the Dar faculty has not escaped this fate, although it must be unique in the great measure of the consensus of its members on the radical critique enterprise. On can no doubt produce radical skilled lawyers, but time is limited and it can happen that radicalism is purchased at the cost of skill. If the legal rules and system are the medium through which exploitation (especially that by foreign capital) takes place, then are we not furthering exploitation by producing lawyers unskilled in legal technique? On the other hand, if one becomes too engrossed in the fight as a practitioner, is there not the danger of co-optation, of seeking satisfaction by fighting for justice through a system by which one is increasingly embraced?[23]

Marxists, from their own perspectives, have raised similar dilemmas, not only at pedagogical but also at personal and political levels. Perhaps, their politics of optimism forbids them to throw up their hands in rhetorical despair and, therefore, (unlike Ghai) they do offer a resolution of the tensions. Whether this resolution is real and concrete or only self-consoling is debatable.

Piccioto poses the dilemmas and resolves them as follows.

> There seemed to be something inherently conservative and repressive about law and for those whose aim was radical or revolutionary social change, there sometimes seemed to be no point in trying to understand it, if our aim was to overthrow the existing form of state and therefore of law. …
>
> On the other hand, both practical politics and theory often underlined the importance and usefulness of an understanding of the law. Although armed struggle seemed an inescapable part of most revolutionary

[23]. *Id.*, at 34.

> processes, it was only a part, and in many ways a small part. Political mobilization necessarily involves engaging with the state, and the law is central to the relationship between the state and the people: … Nor is this merely means to a revolutionary end, for in the construction of socialism and communism it is clear that there is an important role for lawyers, since law and state must be transformed. …
>
> My own conclusion is that, however minor the educational reforms we have fought for and achieved may seem, they have played an undoubted role in improving humanity's understanding of the world and its ways. This improvement in understanding carries revolutionary potential. Although bourgeois liberalism claims to champion open, accessible and rational processes of discourse and education, in my experience liberals are rarely willing to lead a fight to achieve them, nor to defend them when they are threatened. Certainly in Dar es Salaam, and elsewhere, liberals have joined in such struggles, and some have become radicalized as a result; but the aim of the dyed-in-the-wool liberal is always to ensure that reform does not "go too far", even if it means any change is strangled at birth.[24]

This way of resolving tensions is both too general and too specific: too general to assist in the resolution of pedagogical tensions posed by Ghai; too specific in that they address, at best, to the resolution of personal, rather than social and political, dilemmas.

Tenga refers specifically to the translating of the historical, socioeconomic approach generally, and in particular, the socialist standpoint, in the teaching and learning of law:

> The historical and socioeconomic context method in all its hues has faced one major problem, that is failure to develop a focused, coherent, and rigorous method of teaching. . . . These seem to be limits too to the socialist-oriented critique. These are manifested in the teaching method.[25]

Then he goes on to describe that in the teaching from the Marxian view-point, the student was first introduced to general historical development of the subject-matter of the course, then the particular operation of the general notions in Tanzania. And finally the student is exposed to analytic concepts central to the subject. He concludes:

> Here is where the approach tends to break down since here positivism reigns supreme. The proponents of the approach have yet to develop a method of handling the transition from the historical to the analytical treatment.

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[24]. *See, supra* note 16, at 46-7.

[25]. Tenga, *supra* note 13, at 108.

> Students tend to see the later part of the course teaching as the bread-and-butter portion. The area where real or true law is taught. Here is where all the case law, statutory interpretation, and analytic treatises become important for the student who has an eye on practising. …
>
> A serious schism therefore exists between history, socioeconomic analysis on the one hand and the treatment of the subject on the other hand. …. The method espoused by the Faculty seeks to create a "society conscious" lawyer. In Marxian terms this will be an essentially progressive lawyer. In this era he will be that kind of a person who is democratic (anti-authoritarian), progressive and anti-imperialist. In his handling of legal material he will always make sure that the law functions in such a way that it does not undermine the interests of the majority of people in his society - and these are working people. If the law is anti-people the lawyer will be able to educate the public about its nature and side with those who protest against it. A method of teaching law for this all round development of a modern progressive third-world lawyer is yet to be perfected.[26]

Shivji, having analyzed his subject, concludes with a similar optimistic note, albeit at a political, rather than pedagogical level:

> Ultimately, the quintessence of any struggle for reform from a revolutionary standpoint is whether it is a politically sensitizing and organizing experience for the working people. Radical legal work too has to be measured by the same yardstick. The limits of legal radicalism ultimately express the limits of reformist struggles. These limits can be transcended only if, and to the extent, that legal struggles fuel and become part of a larger and broader social and cultural movement of the oppressed and popular classes.[27]

Thus the tensions remained unresolved. But the point of this review is that in the 70s and 80s there were serious reflections, debates and genuine agonizing over how to re-orient legal education towards producing a society conscious and socially responsible lawyer. This is precisely what is dismally absent in the second period to which we now turn.

B. Marketing Legal Education: A Story of Theoretical Nihilism

Following the Uganda war of 1978, the Tanzanian economy entered its worst period of economic crisis. After much haggling, Nyerere had to bow down to IMF conditions and a

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[26]. *Id.*, at 109-10.

[27]. Shivji, *supra* note 21, at 133.

period of structural adjustments ensued. Run-away inflation, the devaluation of the shilling and budget cuts in social services had dramatic effects on social services, including education. In the 1980s, a university professor's salary was less than US$50 while the student book-allowance could not buy more than two standard textbooks. The University infrastructure deteriorated, teaching material virtually disappeared and the library became a pale shadow of its former self.

Lecturers were forced to flee to greener pastures or indulge in moonlighting to supplement their University incomes. The prophecy of the then Dean of Faculty of Law, Dr. Mahalu, began to come true. Writing in the 25th anniversary volume, he said that given stringent economic conditions, students would be more inclined to opt for hard commercial subjects and, within these, they would prefer concentrating on hard rules to indulging in socioeconomic "diversions". As for the faculty, they would be forced to practise and do consultancy. They may flavour their subjects with the "law in context" approach but this would be without commitment, wrote Mahalu.[28]

Ironically, the Dean Mahalu himself (together with a former Attorney General) was among the first to establish private chambers in the city, attracting many former young radical lights of the Faculty. Mahalu's initiative had a domino effect. Others followed suit. The few remaining solicited consultancy and conferences to augment their incomes by savings from per diems.

There was a long interregnum of almost ten years before the current apathy and virtual "surrender" to the market set in. The leadership of student struggles changed hands—from law to other departments and faculties. The staff association became more active in which, unlike previous decades, only a few law teachers participated. A few young law lecturers, who had in late seventies and early eighties done great legal aid work, with undoubted dedication, began to mellow. Legal aid scheme of the Faculty increasingly changed its orientation from being a fighter for the rights of the downtrodden to a preparation ground for academic lecturers to join private practice.[29] Funds flowed and were sought indiscriminately, regardless of the source.

Under these circumstances, there was hardly the time, commitment or inclination to theorize about, let alone experiment with and agonize over the historical, socioeconomic or any other method of teaching. As a matter of fact, in this period we are witnessing, in law as well as other disciplines, a total rejection of any social theory, grand or otherwise. There seems to be a total negation of any world-view, be it a vision of liberation and emancipation or conservation of the status quo. In short, it is a period of theoretical nihilism. What was once a dominant rhetoric, no doubt sincere and serious, is now a dead letter. It was not long before the rhetoric itself was removed from the statute books.

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[28]. Mahalu, *supra* note 12, at 91-2.

[29]. For the legal aid scheme, see I.G. Shivji, *Voluntary Legal Aid in Tanzania*, 90-91 TANZANIA NOTES AND RECORDS 8-33 (1984).

Just as the third phase government under President Mkapa unceremoniously buried the last vestiges of Nyerere's progressive nationalism and *ujamaaism*, so the Faculty of Law leadership of the last triennium of the 20th century buried the last vestiges of more than a quarter century of the historical, socioeconomic method. In its proposal for curriculum review presented to the Arusha retreat in 1999, the management of the Faculty of Law articulated, what it called the "Mission Statement", thus:

> With changing socioeconomic relations, the changing systems of governance and developments in legal theories/jurisprudence as a result of growing complexities within societies (globally and nationally), it has become imperative for the Faculty to respond by reevaluating (sic!) perspectives and hence its mission. It is realized that soon the Faculty shall have to sustain within a competitive market both to attract learners and market its products.
>
> 3.4.1 Therefore the Faculty shall have the following Missions:
> (a) to be the main supplier of legal professionals (judges, advocates, counselors, Attorneys etc) to serve in all key positions in industry, public institutions, government, private institutions and NGOs;
> (b) to be well-recognized nationally, regionally and internationally in terms of quality, relevance and reputation;
> (c) to be the source of legal education, knowledge and information; and
> (d) to act as a catalyst for
> i) rule of law and human rights,
> ii) the democratization of the society,
> iii) gender balance.

Shorn of its verbiage and buzzwords, the Mission Statement simply says that the Faculty of Law should be transformed into a conveyor-belt industry to produce and supply appropriately packaged, marketable commodities—captains of industry, foremen of state apparatuses and (pliant?) managers of NGOs, all marked with the label "efficient and competitive.[30]

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[30]. I was indisposed and could not attend the Arusha meeting. I could only gather enough courage to send with trepidation the following rather woolly comment, which was most probably put aside with a sneer.

Mission statement

> I have considerable difficulty with what appears like a major shift from one end of the spectrum (or is it a divide) to another. It seems to me that while we cannot ignore market demands, no University worth its name (much less a public University funded largely by the tax-payer) can abdicate its **primary mission as a site of knowledge in search of truth**. And in very many respects—which I need not detail here—the market demands are in head-on collision with that primary objective.
>
> Our original mission statement in its phrase ("to produce a society-conscious lawyer") may

To be fair, the Faculty of Law was simply falling in line with the mainstream transformation of the University envisaged in the so-called, lavishly funded, Institutional Transformation Programme, the University of Dar es Salaam-2000. At one of the panel discussions, one of the professors active in the University of Dar es Salaam-2000 transformation, likened the University to a factory and its students to products on the market, which should be properly packaged to make them saleable to consumers! Even the traditionally liberal talk about the University's mission being the search for truth and the site of knowledge; to inculcate its students with holistic knowledge and human values; etc. has been thrown out through the " donor-ordained window of opportunity."

The privatization of the law faculty came full circle with the amendment of the Advocates Ordinance in 1998. This makes the obtaining of a business license a condition for getting practising certificates. A few members of the Faculty protested. This law, they argued, would push a few remaining faculty, who do part-time practice to supplement their incomes under the umbrella of the Faculty consultancy, into full-time practice thus inevitably adversely affecting their teaching. The protest was ignored. The reasoning fell on deaf ears. Authorities in the state seem to have scant regard for the quality of teaching and standard of education at the University. The result is that law academics now run full-time firms in the city taking all and sundry cases, including those that may not fit Tenga's criteria of a progressive lawyer (see *supra*). Under the circumstances, the teachers have neither the

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not have been very elegantly formulated but it certainly—both in theory and practice—incorporated the primary objective that I have spoken of in para 2.

The proposed formulation, say on page 6, is mundane and purely functional. Neither in its formulation nor in its content we can describe it as a statement of mission. It neither inspires nor leads—what exactly is the mission which can arouse a "missionary" (if I may use that term) zeal in us all?

I suggest that the mission statement MUST include—colleagues can formulate it appropriately—the primary aim of University legal education as a site of knowledge and search for truth.

As for producing a society-conscious lawyer, which really emphasizes the **approach** that law cannot be understood outside its historical, social and economic context, I do not see where the problem is. Shouldn't this continue to be the approach to even teaching of practical skills? Positivist, black-letter law teaching was discredited once legal training became part of University education as opposed to apprenticeship/pupillage type training. It is only the puny minds like Thatchers, Reagans, and world-bank functionaries and organizational men who fail to see this. Is it being seriously suggested that we should become an "unthinking" vocational school? Where is the thinking craftsman (which is what a good lawyer is) is in all this?

Please give these matters a serious thought. Market too is a passing fad—don't be so sure of its immortality, such that the whole University approach should be sacrificed at its altar. No society can give up its right of **self-determination to think for itself** in favour of the market moguls.

As for producing competent, knowledgeable and skillful lawyers, I have no problem. As a matter of fact, if what is stated above is well done, we would be able to produce such lawyers. After all, until very recently (and even now) we have done so. Our students trained at this very University have invariably performed well in foreign Universities (including the present leaders of the Faculty) and have been leading legal lights both here as well as in neighbouring countries.

time nor the inclination to adopt pedagogical approaches geared to producing a society conscious lawyer. Even if they adopted such a rhetoric, their practice at the bar would be a far more effective exemplar than their preaching at the podium.

* * *

To complete this narration of the second period, it is necessary to say a word on the fate of the Faculty of Law's legal aid scheme, the changing student composition at the University and the nature of the emerging demand for legal services in the liberalized and privatized market. Between 1977 and 1987, the Legal Aid Committee of the Faculty of Law was revived on a different footing, not as a training ground for law students, but as a form of contribution by law academics to the working people's struggle for their rights.[31] For a whole decade, it did excellent work—both litigation and educative—under a team of young, dedicated and conscientious law teachers. The impact of the legal aid practice on teaching is difficult to assess. One cannot, however, dismiss its positive influence by practical example on the young minds who were supposedly being trained to become society-conscious lawyers.

The crisis of the late 80s took its toll on legal aid work as well, as former activists moved into private practice or consultancy or went abroad for further studies. Legal aid fell into doldrums. Unethical behaviour of some of the fellow travelers of legal aid even damaged its reputation.

Meanwhile, with the mushrooming of foreign-funded NGOs in the 90s, many other legal aid groups were born, many of them in the eclectic western tradition of human and women's rights. The Legal Aid Scheme of the Faculty was also reborn in the 90s under the leadership of human rights scholars and activists. In its new incarnation, however, understandably, a different mission and orientation guided it. Frustrated by the slow and corrupt judicial processes, and lacking the tenacity of fighters guided by a grand social vision, it has tended to move away from class actions (litigation work) to concentrate more on counseling, legal literacy and *networking* with other legal aid groups, activities which are more amenable, and easily comprehensible, to erstwhile donor agencies. Its weekly counseling clinics no doubt play a useful role but that too depends on the dedication of a few dedicated stalwarts. Hence its sustainability cannot be assured.

The introduction of cost-sharing coupled with a falling intake in public secondary schools is beginning to impact on the social background of students admitted to the University generally, and in particular to professional faculties, where entry points tend to be higher. The balance is tilting towards upper middle class, second generation urbanites, who have scored higher points through private tuition or get admitted on lower points because they pay for themselves. These days it is not unusual to see a significant number of one's students carrying cell phones and coming to the campus in their own private cars. While it

[31]. *See,* Shivji, *supra* note 29.

may be true that individual fighters for social causes may come from upper classes as well, one wonders whether a large number of them would be responsive to a training geared to produce society conscious lawyers. With Spence one may say: "I am not arguing that only the poor and the desperate can be whole persons and good lawyers. I do not wish to disenfranchise the fortunate, but one thing I know: We cannot serve justice to the people from a silver spoon."[32]

Then there is a change on the demand side for law graduates. The state and public institutions no longer guarantee jobs for graduates. A law graduate's aspiration is to join private companies and private practice. These jobs are difficult to come by, and in any case require connections and influences, which only those from the rich or powerful backgrounds can muster.

The profile of the private legal profession itself is changing. The roll has increased almost four fold over the last 10 or so years.[33] The organization of the practice has moved increasingly from solo practitioners to firms. In the era of privatization and open door policy of the Government to foreign investments, the practising lawyer's ambition is to seek out corporate work - mining and banking conglomerates, winding up of bankrupt parastatals, foreclosing of small businesses and properties, registering of large "latifundias" grabbed from peasants, resisting redundancy claims of hundreds of retrenched workers, etc. But there isn't enough of this work to go round. Multinational investors have little faith in the local judicial system and local legal practitioners. They would rather engage foreign firms. Given the trend of things, it will not be long before foreign law firms are allowed to operate locally. Seeing the writing on the walls, one leading local law firm, known for its penchant for business, has already gone into a "joint venture" with a foreign firm. The "joint venture" was inaugurated with fanfare by none other than the Minister of Justice himself in the presence of High Court and appellate judges. Ultimately, local firms may simply become springboards for, and local practitioners "brief-case carriers" of, foreign lawyers thus dealing a final blow to any nationalist sentiment and professional dignity. Who cares, though? In the era of marketization, money is the name of the game!

Even judicial structures and reflexes are getting re-orientated towards commercialism as opposed to professionalism. In the midst of dearth of resources for the mainstream judiciary and shortage of judicial personnel, for example, policy makers have thought it fit to establish a commercial court, withdrawing three senior judges from the mainstream High Court. Of course, the establishment was possible because of funding from erstwhile donors. But the state has no resources to maintain it. Beggars cannot be choosers. Aid therefore ends up being a golden noose around one's neck. What is more, how can judges dispense impartial justice when their wherewithal comes from the same sources whose multinationals are likely to be litigants in their courts?

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[32]. *See, supra* note 5.

[33]. F. TWAIB, THE LEGAL PROFESSION IN TANZANIA 205 (1997).

Commercial judicialism is likely to feed back into the practices of the bar and the teaching of law. Business is impatient with the formalities, professionalism and procedures of law. They want efficiency measured by productivity. In terms of training, they want legal mechanics who can quickly fix nuts and bolts not craftsmen or even engineers, who can conceptualize and craft innovative machinery of justice. This is where the Faculty of Law agenda is now heading—training of legal mechanics that can function in the manner of unthinking automatons to meet the corporate demand.

Whence the vocation of a University to generate and impart universal knowledge and produce society-conscious lawyers or lawyer-intellectuals?

IV. CONCLUDING LESSONS

Ahmed Kondo gave us the lessons of the context and the problems of the needy in accessing what is essentially, an *alien, class* law and justice. It is within this context and need that the experience of legal education at the Faculty of Law of the University of Dar es Salaam should help us to theorize on the type of legal education that we *need* to structure and the kind of lawyer we *need* to produce. But we are living in an era of the dominance of the market and globalization where intellectual production, we are told, must produce to meet the *demand,* not the *need;* where the driving force is *profit*, not *principles,* where the art is *commercialism,* not *professionalism;* where the craft lies in *manipulating,* not *innovating* and where *grand social theory and vision* are derided as *passe´*, (*"imepitwa na wakati"* to use Tanzania's current sing-song) while unprincipled and opportunist eclecticism is triumphalized from roof-tops.

In short, there is a yawning schism between the need and the demand. Whereas there is a clear need for training a *lawyer-as-a-social-critique* and *lawyer-as-a-professional-craftsman,* grounded in a vision of a rational and humane social order**,** the demand is for a *lawyer-mechanic* to mend the ruthless machines of the globalizing (or is it "gobblizing"?) corporate world. In my view, notwithstanding the tensions discussed in this paper, University education is quite capable, competent, and indeed it is its vocation, to train a lawyer who combines in him/her a social critique and a professional craftsman and, thus, is guided by his/her social responsibilities, which in this case means no less than responsibility and accountability to the working people, the Ahmed Kondos of our societies.

University is not, and ought not to be turned into a workshop or a vocational school to produce technicians and legal mechanics, or social nihilists. Age old wisdom tells us, and it remains unrefuted, that technical skills are best learnt on the job - law schools, pupillage, apprenticeship, etc. In this era of global pillage, the dominant powers would indeed prefer to turn our Universities into workshops and vocational schools, so as to turn out unquestioning and unthinking legal mechanics.

Mechanics mend machines. It is not the vocation of mechanics to ask: How is the machine produced? Who produces the machine? What is the driving force behind the machine? Whose interests does it serve and who is crushed by it?

Do we want to produce legal mechanics to mend the globalized machinery packaged

and labeled as the "machinery of justice" which daily crushes our people and spits them out to the ghettos and slums of the so-called "global village"? If we become allies and accomplices in this global enterprise of "new" imperialism, History would judge us worse than our chiefs who sold our lands for trinkets. We would have surrendered our basic right, the right to all human rights, *the right to think for ourselves and be human beings.*