Innovations for Successful Societies Oral History Program

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SCHER: My name is Daniel Scher and I'm the associate director of the Innovations for Successful Societies project, and I'm here in Dar es Salaam with advocate Francis Kiwanga.

KIWANGA: Yes.

SCHER: Sir, thank you very much for taking time out of your day to meet with us. I'm sure it has been a long day and I really appreciate it. Sir, before we begin with some of the questions that I had with you, I wonder if you would mind just briefly introducing yourself and telling us a little bit about your current role and career trajectory that has brought you here.

KIWANGA: I'm Mr. Francis Kiwanga. I am the executive director for this organization, the Legal and Human Rights Centre. I am graduate in law, undergraduate actually; I hold the LLB in law; that is, I finished my law degree in 2003. I joined the civil service for one year, and then I joined the private sector for another year before I joined this organization to head a field office in Arusha. This is a sub-region office in Arusha. Then since June last year, I was promoted to be executive director for this organization. So I am here since June of last year. About my organization, an advocacy organization, we are dealing with human rights and good governance. We are an NGO [nongovernmental organization]; we are not meant for profit, and it is a membership organization. We have more than 70 individual members; we don’t have corporate members, only individual members.

In terms of what we do, we have a strategic plan for six years but now we have divided the strategic plan for three years which ends up this year, 2009, and from next year we will have another operation plan. So we are now doing evaluation for current operation plan before we start another. What we do, we have divided the operation plan into three categories. One is legislative and policy advocacy for social justice. What we do in this category, we conduct legal-aid services to the indigenous people. So when we are conducting legal-aid services, we do it with the aim of tapping some information, of practice and law. Because in legal-aid services we can see clients by physical contact. We test now the practability of different laws which are enacted by the Parliament, because clients will come with different problems. When we’re serving them we come to—we tap some information with them whether there are some gaps relating to these laws, whether they conform to constitutions and some other things.

Also, when we are conducting legal services we aim at re-empowering the clients. So that when you empower, and we believe you’ll go and be, use the same knowledge to educate his fellow citizens where he comes from.

Also within the same program, realizing that Tanzania is a very big country and we have very few centers which are mainly located in town, so we have now come up with a mobile legal-aid services where we go to remote areas where we have conducted mobile legal-aid services to different places, to people who are needy, who need some legal services.

In the same category we also conduct strategic cases. These are cases with the aim of bringing about reforms, legal reforms. This is another area where we’ve been very successful. We have conducted cases to test the constitutionality of the law on corruption in elections. That’s when the court found out that the law was contrary to the constitution and declared that law null and void. In general this year we have been successful in the Court of Appeals in cases which has brought in the mandate to the Commission of Human Rights and Good
Governance. Our Commission of Human Rights and Good Governance is a new institution which was established in 2001. So this was the first case to the taken to the commission which now wanted to see what would be the status of the recommendation of the commission and its enforceability.

So we have got the decision of the Court of Appeals which says from now on the recommendations of the commission are supposed to be implemented by the government. Failure with that, a party can take the recommendation to an officer of the High Court. So that was a very good decision and it is very strategic now. It has given more mandate of the Commission of Human Rights and Good Governance. So those are a few cases in which we pursued. So we pursue cases along those lines.

Another category of cases: to build up a partnership between government and the private partnership with the aim of strengthening good governance. So how we do this, we have established a Parliament watch. You know, Parliament being very important part of the state. So we work very closely with the members of Parliament in ensuring that we take their recommendations to the Parliament to all bills in which the public, the general public, is invited for recommendations. You know sometimes, why we did that because we realized in most cases members of Parliament do not have enough time to consult their people, their constituency. So we saw that as an opportunity, maybe we can work with the members of Parliament to strengthen this partnership so that we can have laws which are pro-human rights and will conform to the standards of human rights.

We also have by Parliament, we have another watch. It is called a government watch. This will monitor the performance of the government with a view to either advising sometimes, sometimes issuing recommendations, taking some administrative measures sometimes to improve the situation. So what we do in our watches, what we have done is to gather some, we have consulted, actually firmed up a panel of prominent people while working either in government watch we have three to five people. These are either respected civil servants, retired civil servants or maybe religious leaders, church leaders, Muslim leaders, depending on the combination. So what we do is for them to meet them in each quarter of the year. They meet, they discuss, they look at the whole quarter, what happened in the whole quarter and now they give us, we act as a secretariat to work on what they think we need to do, to take some administrative or other measures.

We also do some mass education within that. In the same line, we also have established a justice watch; there are three watches. Justice watch. This looks at the judiciary and various issues, like we have come up with the issue of delay of cases in courts. The question of technicalities in our courts, they are very technical sometimes with the extent of defeating substantial justice. Yes. But they all work on the same. We have a panel, we as a secretariat this is our initiative as the secretariat, we are fed by the panelists and then we take matters forward.

We also have the monitoring unit, human rights monitoring unit. What we did is to have a group of monitors who are scattered all over Tanzania. In each district we have one. They work covertly and they are feeding us—.

SCHER: They work covertly?

KIWANGA: Yes, because sometimes if they’re exposed they might face a risk, maybe of being maliciously prosecuted with the government sometimes. But it is not that much a secret because we get them from society, some can be teachers,
someone who understands what are human rights issues. So that what they do is they give us feedback on some development of human rights situation where they come from. If the matter needs more attention, we can send a delegation of a team to do a fact-finding mission with that team.

The information from these paralegals plus from media, from interview and other sources, we compile an annual human rights report. So we are the only institution which produces annual human rights report in the area. This is a situation report. In each we expose a human rights situation and then we give recommendations. We have this report is very useful to some stakeholders, policy makers, government officials, they are using the report.

Another is mass education. This is another unit within the organization. This deals with now informing people about their right and—trying to raise awareness of people in matters of human rights. We conduct TV programs, radio programs and we have gone to the grassroots, to the remote areas, where we train paralegals. These are assisting their fellow villagers at the local level to push some administrative or some legal issues. We have trained them, they are capable. They can understand some issues, they can pursue some of those issues.

So basically, the third category is more on the sustainability of the organization. To make the organization sustainable is also a challenge; that’s why we have designed to have a special unit which is dealing with the sustainability to ensure that we have resources, we have the board, the whole matter of sustainability of the organization. This is in brief who we are.

SCHER: It certainly sounds like you’re doing a lot of important things in a number of different areas.

KIWANGA: Yes.

SCHER: So can I ask you about your specific engagement with the police on human rights issues. How does this interaction work and what is your relationship with the police in terms of advocacy?

KIWANGA: With advocacy now we realize that police are a very important partner, because at one point matters of human rights were considered to be very foreign. So what we did here, when we started the organization like 10 years ago, that was the first initiative we took with the police. What we did is to organize specific training to all regional police commanders, of all regions, 25 regions. That was the first level to deal with them.

Then we went to the next level of districts. We have more than 130 districts. Where we have divided, Tanzania is a state which has, within the city we have regions administratively and then we have districts. So we went to the level of region where the police commanders within the legion, they’re all trained by us. Then we went to the level of district commanders. They are also trained. We also lobbied for having in place within the training, police training, to have their curriculum about human rights.

After some… I’m told in America lobbying has a very bad meaning.

SCHER: Yes.

KIWANGA: So what we did is advocacy.
SCHER: Yes, advocacy.

KIWANGA: But here we can say lobbying; it does not connotate what you mean.

SCHER: I understand.

KIWANGA: To actually influence changes. So we influenced changes to the police to have within their curriculum when they're training police officers at the college, now they will introduce the human rights subject within the police officers. So to us, it was a very positive step. If we build the capacity of these police officers to know what are the human rights, then it is very useful.

We have also designed specific booklets, small booklets, self-help kits, which educate people about what are their rights when they are arrested by police. And what is the duty of the police when arresting. So with this, we widely circulated them, so that if a person comes in contact with the police they would be able to know what are his rights. Sometimes you know, police tend to use people's ignorance and then to corrupt you or anything. So once people are aware of their rights, then they can fight or they can tell the police what they think is their right. In our system I think it is very unfortunate police are considered to be, are perceived to be very corrupt, the police force. In Tanzania 1992 or '93, no, 1995, we had the Commission on Corruption, in which our police were identified in the top four institutions which are very corrupt. So one of the areas in which police use it for the sake of corruption was bail. Because when they are arrested you know bail is a constitutional right. It is specifically, this is your right.

So they could put somebody in custody, in the meantime, not for the sake of soliciting. So we were able to produce and go into very serious education to educate the people about their right, because it is their right. Bail is their right. With the exception to some few offenses, such as treason and murder where you cannot, where the law specifically says no bail, the rest of the offenses are bailable. So this is what we have done.

Even currently we are working with the police, we have some reforms within the police reform. One of the very positive reforms, they are now introducing gender and children's desks in each region and in each police station. So we are now working with the police to see, sometimes we go to train them and we are now working on how we can work together on this initiative by the police themselves to have gender and children's desk. These are very vulnerable groups, children and women.

So apart from that, also they contact us on some ad hoc basis to train them, especially their senior cadre officers on different issues of human rights. So this is how, in short, we work with the police.

SCHER: Would you mind if I asked a few questions just to clarify a few things? You mentioned that human rights were for some time considered to be something of a foreign concept within the police force. Could you talk a little bit about how this manifested itself? I mean, you mentioned the issue of bail being one.

KIWANGA: You know, what happened, we had the constitution. Our constitution was in 1977, the constitution. But when we came up with the constitution, we did not incorporate a Bill of Rights in the constitution. So the Magna Carta was not there within the constitution. The Bill of Rights was incorporated in the constitution in
1984. So after it was incorporated, the government said it had to suspend the applicability of the constitution over five years so that they could change laws, to keep their house in order. So it was suspended to 1988. Then in 1989 it started being applied—the Bill of Rights—in the constitution.

Then in 1992 we had now further amendments to the constitution to open up political parties, multiple parties and the like. So you can see the Bill of Rights started being articulated in the 1990s. That's why we have seen even some openings of some political parties, civil society, including ourselves, were formed in 1995. Before that we could not be formed because the law could not allow. So we could not have this opportunity. So even issues of human rights, nobody, they could not be articulated the way it is done now. From which angle you start now advocating for these rights if they are not in the constitution in the first place.

So from the '90s actually started realization of these rights. So in short, you can imagine that between the '90s to 2000, it is a very short period, I would say.

SCHER: So when did your specific training for the regional commanders begin?

KIWANGA: That was in 2002 or 2003.

SCHER: So it is all fairly recent that you—.

KIWANGA: Yes.

SCHER: One of the things I’m always interested in is how you sort of sell the idea of human rights to police forces. In some cases that we’ve heard of, the police are not too enthusiastic about it because they feel that these sorts of issues actually hamper them in doing their job and prevent them from being effective if they’re schooled in perhaps old-style, whereas you say human rights are a little bit foreign. So how do you go about saying it is a necessity?

KIWANGA: We realized in our planning that we need to work with the police, not only police, even to prison officers and some other cadres within the government. So what we did is to have, and we used actually personal contacts because sometimes reforms come within our region. It depends sometimes, not only on the institution, also who is in that institution also counts sometimes. So we like it to have somebody within the police force, I think it was—not the IGP [inspector general of police]—it was the DCI, director of criminal investigation, by then who was ready to listen on this lobbying, in our context, in the meaning of our context to see they give us a room to go and train them.

So we started to train them and we got also assistance from the top police officers even to go down to the level, the region, even at the district.

SCHER: So you had a strong partnership with the top leadership?

KIWANGA: Yes, sure.

SCHER: That sort of gave you the access that you needed?

KIWANGA: Yes.

SCHER: So when you're conducting this training, what is the curriculum that you use?
KIWANGA: We developed manuals, we had the manuals which were prepared by us and definitely approved by their leadership, but we had the control on the content of the course, actually; so that what we did is to actually extract the content from the Bill of Rights. We were able to take them, especially political and civil rights; the content of the curriculum was there. I don’t know if we’ll have copies at our library but we had these manuals for training, police manuals. If they’re there, they might be in Swahili, but we can go and try to see if we can get some copies.

SCHER: I’d be very interested to see that.

KIWANGA: Yes.

SCHER: One thing that I’m wondering: I’m not entirely clear on your relationship with the Commission on Human Rights and Good Governance, because it seems that there’s some overlap between the two organizations, especially with regard to this issue of human rights training of the police.

KIWANGA: You know we started working in 1995. The commission came in 2001. You see, so all this time we had been working. Sometimes people think they’re confused between us and the commission because we started working before—they’re a constitutional body. But it is currently, they also have some problems like now, they don’t have enough staff to go around Tanzania and some other places. I think in some ways we could be more effective than them because it is a fairly new institution.

SCHER: OK. So are you, or have you developed any way of I guess measuring the effectiveness of the training that you do? I mean, to see whether it is really being absorbed and practiced by the people that you're training.

KIWANGA: Sometimes, because when we’re dealing with advocacy, like change of behavior—with legal reforms you can tell, maybe we’re able to change this and that. But some of the things are difficult, especially whether the police behavior changed after training. It is very difficult to measure. But we can see like how they are responding to some of the issues. Like I told you, we are producing this annual human rights report. Sometimes they come to us to ask for this report to see how do we comment about them. Even some of the reforms now, they are, like this question of gender, these women and children’s desks, they have been cooperative to a large extent with the civil society on how we can work together and improve this question of women and children.

So it is a convenient impact in the sense of now they consider us as partners rather than people who are saying some negative things against the police. Like the reports sometimes can be very rude, especially in the statistics, because we don’t invent those. We go through what the government offices say—but they tend to take it very positive. Sometimes they make even reference to this, even members of Parliament when they are arguing some issues within the Parliament. So this is how we deal with them.

SCHER: I’ve taken a look at your 2007 report and some of the things I noticed in there particularly with relationship to the police were issues like extrajudicial killings and issues of mob violence and other issues of that nature. I was wondering whether you developed targeted programs to deal with these specific issues or is it more broad program that tries to inculcate a general sense of what the Bill of Rights is or whether you have sort of more targeted interventions.
KIWANGA: All our interventions are done within three years, you have targets set for three years. So this is August, we are doing evaluation for the programs for the last three years. Then we will come up with another program for three years. Because it gives us—to be more focused on some issues. So if you pursue an issue for three years and then you can evaluate to see if you’re successful, whether you need to continue with that or not.

So what we have done is—the targets like, the issue of mob violence, prison conditions and others. Maybe while we are doing this evaluation this year we might think about some interventions in the future.

SCHER: I see.

KIWANGA: Like why we produced that report. We wanted to expose, to be an advocacy tool. When you are saying maybe mob violence is increasing in Tanzania. Then you have a reference to some of the documented reports. So that is useful to that extent.

SCHER: OK. In terms of the current reform program that Tanzanian police are undergoing, what do you see as some of the challenges facing the police and some of the things that they really need to address in order to perhaps improve their effectiveness. Maybe this is outside of the area of human rights specifically.

KIWANGA: What they need to do now is to work on how they can improve confidence from the people. This is a challenge which is always posed to the police force. They have started. There are some initiatives, like now introducing community policing and others. But once people don’t have faith in the force, it is very difficult to make some useful reforms within the police. So this is what we need to do, create an image where a police officer is going to be a friend of people, rather than considered to be another—somebody who is like a force, you know somebody who uses force. So that is one, some of the things they need to do. I can see actually, as you said, there are some very remarkable improvements within the police force. We can see, things are changing, and they have some support from people as well.

SCHER: What are some of the improvements that you have noticed as somebody who interacts with the police?

KIWANGA: One is on accountability. It used to be police like, when you go to police, it used to be very normal like police harassing you, beating you when you were arrested. But some of the things now are dying away. Police cannot beat you if you are not resisting arrest or anything. The question of bail, sometimes bail used to be very difficult for one to be permitted on bail, but now those are things—accountability to police themselves. Sometimes in the past police used to be doing things with some impunity but now they are held accountable. You have heard about this case of the regional police commander who organized the junior officers and they killed two business people. You might have heard of that story. That is the kind of accountability that you can see in the police force. Yes, even if police commit extrajudicial killing, you’re going to see now some are being taken to court. So that itself is a change, that is very positive within the police force.

SCHER: So this is actually not, it is not new institutional making in terms of new regulations, it is just a new sort of ethos within the force itself, with it basically adhering to things that it should have—.

KIWANGA: Yes.
SCHER: Excellent.

KIWANGA: Now what they did is to change top leadership, where a new guy who used to work with Interpol is the current IGP. This is a guy who now is championing some reforms within the police. I can see people responding to some of the initiatives that he is trying to push.

SCHER: Thanks very much. I know you have many other things to do. Before we end I just wanted to give you, maybe there is a key issue I haven’t asked or something that you feel is quite important that I should bear in mind when looking at these issues, an open question, an open chance for you to say if there’s anything that I missed.

KIWANGA: No, I think you have covered most of the things, only we need to get feedback off this report when you are done with it.

SCHER: Definitely. Thank you sir.

KIWANGA: All right.