

Title Card:

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Namaste family. This is Vivek Maru. Back with you again for legal empowerment 101. Which is about combining the power of law with the power of people. In this session, I'm going to talk about some steps that we can take with communities to take on injustice. And I'm going to be referring to two inspiring stories; One about people who are protecting community lands in Kenya, and another one about people who are bringing a community organizing model into the criminal justice system in the United States. And both of those stories are described in short video so if you haven't yet go watch those and then come back here.

(Text on screen)

Case study 1: Community Land Protection with Namati in Kenya

Case study 2: Participatory Defense with DeBug in California

So, taking on injustice, ordinary people how are we supposed to stand up to the grave injustices that exist in this world? What tools, what weapons do we have? We don't have guns typically and even if we did guns often lead to more injustice rather than less. We don't have much money, usually What do we have in our in our toolkit?

Two of the most important things are our systems of rules, imperfect as those rules may be,

and ourselves, the power of law and the power of people. And what I want to offer are some basic steps we can follow to take on injustice in a way that wields those two tools intandem, that deploys them together.

(Text on screen)

Step 1: Come together

Step 2: Understand injustice and set a goal

Step 3: Analyze power and analyze law

Step 4: Take action

Step 5: Refresh and take action again

Step 1: Come together.

Step 2: Understand injustice and set a goal.

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Step 4: Take action.

Step 5: Refresh 1, 2 and 3 and take action again.

(Text on screen)

STEP 1: COME TOGETHER

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The reason that is important, is that though it might feel sometimes like injustices heaped upon one single individual, it is almost never the case, it's almost always systemic in some way. And it's almost impossible to overcome injustice on your own, we need to come together. Raj Dev who pioneered this idea of participatory defense, he talks about how facing criminal charges is often an extremely isolating experience, and participatory defense is an attempt to reverse that isolation.

So families instead of sitting at the back of the courtroom watching passively, they are taking active part in the defense of their loved one and they are supporting other families who are doing the same thing. People are coming together in the face of this system of mass incarceration. In Kenya, these are massive grazing lands.

They're not held by one family or another family, they are held by communities and they have been for generations and so the only way to protect those lands, is to come together as communities.

(Text on screen)

STEP 2: UNDERSTAND INJUSTICE AND SET A GOAL

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Raj talks about how the United states incarcerates more of its people than any other country in the world. And how racial and economic bias is baked into every step of that criminal justice system.

And in terms of a goal, he mentions how the system often speaks in terms of time served, you know you get a sentence and you have to serve four years or eight years, and for participatory defense their goal is

time saved. They want to get acquittals and reductions in sentences so that people can spend less time in prison and more time living their lives with their families at home.

In Kenya, Isaiah Lusurenka in the video, mentions we're kind of like birds sitting in the trees, we can be here for now but anyone could drive us away at any moment. And so the goal that they set is to secure the right to govern the lands that they depend on.

(Text on screen)

STEP 3: ANALYZING POWER

AND ANALYZING LAW

Step 3: Which is about analyzing power and analyzing law. Power analysis means asking who has the power to make the change that we are seeking, and what is the power that we've got or that we can build to compel them. Legal analysis is about asking whether there are laws or procedures or provisions already on the books which are on our side, which we could use to advance our cause. Raj told me that power analysis is baked into everything that they do. The power holder is usually the judge, sometimes it's a jury, sometimes it's the prosecuting attorney, sometimes it's your own public defender, and the power that families have is that they know this person better than anybody else and they are willing to pour in the time, the energy, the love to ensure that they have the best defense possible.

In Kenya, the power holder is really the ministry of lands. That's who has the power to recognize land rights. And there was a law, the 2016 community land act, that created an opportunity because it laid out for the first time a process by which communities could secure their land rights over these common grazing lands. And communities recognize that the power they had, was to follow the steps laid out in the law. That if they could do their part that would put them in a stronger position to convince government to do its part.

(Text on screen)

STEP 4: TAKE ACTION

Step 4: Take action.

Once you have come together, you have identified an injustice, set a goal, analyzed power, analyzed law, you are ready to take action. In the US, that means gathering evidence, packing the courtroom, preparing what they call social biographies which offer a fuller picture of this human being outside the context of the criminal justice system.

In Kenya, that meant communities following the steps that are laid out in the community land act. So mapping their lands, identifying where their boundaries are, organizing and adopting bylaws for how they're going to manage their lands. Electing community Land Management committees and as is required on the Kenyan constitution, making sure that those new land management committees are at least one third women. Communities in Kenya followed all of those steps just the way the law laid them out.

Of course justice does not come quick. It's a journey and so step five is to refresh on steps 1, 2 and 3 and then take action again.

(Text on screen)

STEP 5: REFRESH AND TAKE ACTION AGAIN

And sometimes, that can be an opportunity to move from solving specific problems towards reforming laws and systems;

(Text on Screen)

LEGAL EMPOWERMENT CYCLE: KNOW, USE, SHAPE

With learning and leadership from grassroots struggles, pursue structural change

(Left) Take on specific violations (know law & use law)

(Right) Systemic change (shape law)

Bring positive new laws and policies to life

if you remember that's what we call the legal empowerment cycle in the in the first session. Raj likes to call that 'moving from cases to campaigns' and he gave me an example of what that looks like for them. They saw a pattern across many cases where young people were getting filed directly into the adult prison system with terrible consequences and so people ended up coming together across many cases to fight for a new ballot initiative in the state of California, proposition 57.

That made it impossible, that stopped this practice of putting young people into adult prison. They went from cases to campaign and they won. They changed the system not just for their own place of San Jose but for the entire state of California. In Kenya, communities followed all the steps the law said but they hit a wall because government wasn't doing its part to implement the community land act. So they refreshed

their power analysis, their legal analysis, turns out that the only way that their applications to get their community land rights could move forward, is if there were county land administrators which the law requires but which the government had not yet hired or deployed.

And in terms of power analysis, they said well who has the power to put those county land administrators in place? It was the minister of lands and so that's why as you saw in the video people came together from communities across Kenya, came together, went to Nairobi, marched to the ministry of lands and demanded to see the minister. And Matito Leriso, who's one of the women we hear from in the video, she said when I saw the minister, she told me when I met Matito she told me that when she saw the minister, she said, 'we worked for two years on this application, we're not going home with it now.' And they didn't just demand that their own applications got accepted, they also demanded that the minister deploy county land administrators nationwide so that implementation of the law would go forward across the country.

(Text on screen)

LEGAL EMPOWERMENT CYCLE: KNOW, USE, SHAPE

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(Left) Take on specific violations (know law & use law)

(Right) Systemic change (shape law)

Bring positive new laws and policies to life

If you remember in that first video, I talked about two really powerful assets that grow at a grassroots struggles that can help with the pursuit of systemic change. Learning and leadership.

And both of those were at play in this case. The years of work at the community level helped them to learn what it takes to implement the law and practice, also helped them to identify what the stumbling block was, what the barrier was to actually achieving their goal. And then in terms of leadership, Matito, she told me she does not know how to read or write, she's never been to school, she had never been in Nairobi before. It was the process in her own hometown of following these steps, getting involved in deliberating on bylaws, getting elected to the Land Management committee. That process of knowing and using an existing law in her own community, gave her the strength, the confidence, the will to then travel all the way to Nairobi and go toe to toe with the minister herself.

(Text on screen)

Step 1: Come together

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Step 4: Take action

Step 5: Refresh and take action again

In sum: come together, identify an injustice and set a goal, analyze law, analyze power and take action, refresh, take stock, take action again. I thought these were two really beautiful examples of how you can go through this process, how you can combine law and organizing to advance justice. I take deep inspiration from both these stories and I hope you will too.

Thank you.