

# **Rural Development and Human Rights in South East Asia**

**Report of a Seminar**

**in**

**Penang, December 1981**

**Organized by the**



**INTERNATIONAL COMMISSION OF JURISTS  
and CONSUMERS' ASSOCIATION OF PENANG**

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## CONTENTS

Preface, by <i>Niall MacDermot</i> , Secretary-General of the International Commission of Jurists .....	1
List of Participants .....	3
Conclusions and Recommendations .....	7

### Opening session

Opening address by <i>YTM Tunku Abdul Rahman Putra Al-Haj</i> , former Prime Minister of Malaysia .....	33
Address of welcome by <i>S.M. Mohamed Idris</i> , President of the Consumers' Association of Penang .....	35
Address by <i>Param Cumaraswamy</i> , Member of the Bar Council, States of Malaya .....	38
Address by <i>Niall MacDermot</i> , Secretary of the International Commission of Jurists .....	41
Key-note address by <i>Tun Mohamed Suffian</i> , Lord President of the Federal Court of Malaysia .....	45

### Committee I — Agricultural and Economic Policies

#### Working Papers:

Preliminary Questions concerning Development in the Rural Areas by <i>Lim Teck Ghee</i> .....	52
Agricultural and Economic Policies by <i>Sajogyo</i> .....	58
Human Rights and Rural Development: A Tool of Analysis by <i>Chandra de Fonseka</i> .....	66
Summary of discussion .....	73

### Committee II — Land Reform

#### Working Papers:

Some Problems of Land Reform in Indonesia by <i>A. Abas-Manopo</i> .....	76
Land Reform in Malaysia by <i>Nik Abdul Rashid</i> .....	86
Summary of discussion .....	93

### Committee III — Role and Status of Women

#### Working Papers:

Problems and Potential of Rural Women in Development by <i>Evelyn Hong</i> .....	94
Role and Status of Women in Thailand by <i>Lekha Paireepinath</i> .....	120
Rural Women in Social and Economic Development, An Indonesian Case by <i>Pudjiwati Sajogyo</i> .....	127
Summary of discussion .....	147

### Committee IV — Participation in Decision-Making

#### Working Papers:

Mobilization and Organization for Participation in Decision-Making by <i>A.C. Espiritu</i> .....	151
Approaches to Rural Development and their Implications for Human Rights by <i>Hiroko Yamane</i> .....	160
Summary of discussion .....	172

### Committee V — Social and Legal Services

#### Working Papers:

Development Legal Aid in Rural ASEAN: Problems and Prospects by <i>José W. Diokno</i> .....	175
The Legal Aid Movement in Indonesia: Towards Implementation of a Structural Legal Aid Concept by <i>Adnan Buyung Nasution</i> .....	189
Dharma Cipta (Creative Commitment): A motivators programme for village development by <i>Ed Lalisang</i> .....	197
Summary of discussion .....	208

### Committee VI — Natural Resources and Environmental Questions

#### Working Papers:

Environmental Problems and Human Rights in the Rural Areas by <i>Khor Kok Peng</i> .....	209
---	-----



An Environmental Issue: The Urban-Western Bias and the Westinghouse Nuclear Power Plant by <i>Delfin J. Ganapin Jr.</i> .....	220
Summary of discussion .....	233

<b>Appendix I</b> : ILO Convention 141 concerning Organizations of Rural Workers and their Role in Economic and Social Development .....	235
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<b>Appendix II</b> : ILO Recommendation 149 concerning Organizations of Rural Workers and their Role in Economic and Social Development .....	239
--	-----

<b>Appendix III</b> : Law, Participation and Development: An ESCAP Programme .....	246
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## PREFACE

This publication is the report of a seminar on Human Rights and Development in the Rural Areas of South-East Asia, organized jointly by the International Commission of Jurists (ICJ) and the Consumers' Association of Penang (CAP). This was the sixth in a series of third world seminars organized by the ICJ, the previous ones being in Dar-es-Salaam (1976), Barbados (1977), Dakar (1978), Bogota (1979) and Kuwait (1980).

The participants, who came from Indonesia, Malaysia, Philippines, Singapore and Thailand, included lawyers, economists, developmental, educational and environmental experts with grass-roots experience in rural areas, and observers from ESCAP, ILO, FAO and UNESCO.

The topics discussed were agricultural and economic policies, land reform, the role and status of women, participation in decision-making, social and legal services, and natural resources and environmental questions. The twelve working papers on these subjects are reproduced in full.

The conclusions and recommendations of this seminar confirm many of those of the Bogota seminar on human rights in the rural areas of the Andean region. They are, however, much fuller and constitute a significant document illustrating with a wealth of detail the ways in which the human rights of the rural poor can be adversely affected by processes of maldevelopment.

In the belief that they would make a useful contribution to the current discussion on the Right to Development, copies of these conclusions and recommendations were distributed to the delegates to the UN Commission on Human Rights at its meeting in Geneva in February 1982.

The credit for the success of this seminar is largely due to the contribution made by the Consumers' Association of Penang which, in the opinion of many experts, is the world's outstanding consumers' association. The International Commission of Jurists is deeply grateful to the staff of CAP for their efficient organization of the seminar and for the wealth of expertise with which they enriched the discussions and the resulting conclusions and recommendations.

It should be explained that the summaries of the discussions are very brief because the greater part of the discussions are adequately summarised in the conclusions and recommendations.

The International Commission of Jurists and the Consumers' Association of Penang wish to express their gratitude to the following organizations whose generous financial contributions made possible the holding of the seminar: Asia Partnership for Human Development, Bread for the World (German Evangelical Church), Catholic Organization for Joint Financing of Development Programmes (CEBEMO, Netherlands), Danish Church Aid, Dutch Bishops' Lenten Action, European Human Rights Foundation, Inter-Church Coordination Committee for Development Projects (ICCO, Netherlands), and the Netherlands Organization for International Development Cooperation (NOVIP).

Geneva  
February 1982

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# CONCLUSIONS AND RECOMMENDATIONS

## OF THE SEMINAR ON

### HUMAN RIGHTS AND DEVELOPMENT IN THE RURAL AREAS OF SOUTH EAST ASIA

#### I. Agricultural and Economic Policies

##### Introduction

1. Development is a process of individual and social betterment of people, aimed at providing them with an improved quality of life in the fullest sense. It seeks therefore to ensure the promotion of human dignity and the constant improvement of the well-being of the entire population on the basis of its full participation in the process of development and a fair distribution of the benefits. Development must be seen as a legal right of individuals, communities, peoples and states.

2. The right to development implies that there must be a respect for all human rights — economic, social, cultural, civil and political — in the development process. These rights are inseparable and inter-dependent. A development strategy that results in the denial of any of them not only violates international standards of human rights but is a negation of the very concept of development.

3. The elements of the right to development are to be found in the U.N. Universal Declaration of Human Rights:

Articles 19, 20 and 21 assert that everyone has 'The right to freedom of opinion and expression', 'freedom of peaceful assembly and association', 'the right to take part in the government of his country directly or through freely chosen representatives' and 'the right of equal access to public service in his country'.

Articles 22, 23 and 25 assert that everyone has 'The right to social security and is entitled to realization ... of the economic, social and cultural rights indispensable for his dignity and the free development of his personality', 'the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment ...' and 'the right to a standard of living adequate for the health and well-being of himself and of his

family, including food, clothing, housing and medical care and necessary social services, and the right to security . . .’.

Finally Article 28 asserts that everyone ‘is entitled to a social and international order in which the rights and freedoms set forth in (the) Declaration can be fully realized’.

It is clear from the above that no violation of any of these rights can be justified on the ground that it is for the good of the majority, a ground that is more often than not specious in reality.

4. For the development process to take place, individuals, communities and states must have effective access to:

- tangible resources to achieve their basic needs of productive and equitably paid work, sufficient nutrition, health care and hygiene, shelter, energy resources, clean water and air;
- the necessary intangible resources, especially education and information, to enable them to better utilise resources, and to participate freely in the process of development;
- structures of production and government to assure the fair and equitable allocation of the above resources;
- facilities and services to organize themselves to participate, monitor, evaluate and review development programmes and processes, and to hold accountable those responsible for their implementation.

5. In the light of the above principles concerning the relationship between human rights and development, the following areas of rural development policies were discussed. The discussion illustrated ways in which their effects were in conflict with the achievement of human rights and human development.

### **Capital-intensive technology in food production**

6. High cost inputs (fertilizers, pesticides, etc.) associated with capital-intensive technology are usually beyond the means of poor farmers. They can even be unnecessary in the sense that, while they may be required by government programmes, alternatives may exist (e.g. labour intensive weeding) which are more suitable to the circumstances of poor farmers. And high cost inputs can even be dangerous. Pesticides, fertilizers and other chemicals which cannot legally be used in the country of manufacture, are often exported for use by third world agricultural workers and producers who are not informed of their dangers.

7. Such technology almost invariably results in further concentration of production resources in the hands of the wealthy and powerful.

8. Capital-intensive technology has an inherent momentum which results everywhere in the displacement of labour.

9. Where poor farmers attempt to adopt this technology they are forced to seek increases in credit, either from money-lenders whose interest charges are destructive in the long run, or from banks which either do not find them credit worthy, or do not make provision for fluctuations in the small-holder's ability to meet loan repayment requirements.

10. These technologies are ecologically destructive. They destroy natural balances between plant and animal predators, and they destroy aquatic environments through eutrophication.

11. Finally, in some instances, these technologies result in genetic erosion and remove even local control over genetic resources (e.g. types of seeds) by transferring these to the control of multi-national corporations.

### **Export-oriented plantations**

12. Common forest and land resources are often given through licences, permits, etc. to those with influence, power or wealth to establish export oriented plantations.

13. Peasant farmers are often displaced in order to develop production for foreign markets, usually with little or no attempt to involve them as small-holders in this production. Fraudulent practices are often used to displace and exclude them.

14. The development of plantation export production often displaces production for local diets, usually where there is already a high level of malnutrition.

15. Plantation organization usually ignores, or even suppresses, workers rights of self-organization for their protection and advancement.

16. Plantations result in large organizations which are subject to international price fluctuations, the effects of which are amplified as they are passed down through power and income hierarchies.

17. Plantations generally create migrant labour forces, with all of the associated problems of degradation and exploitation.

### **High technology commercialized fishing**

18. Poor in-shore fishermen are deprived of their livelihood.
19. Uncontrolled trawling destroys marine ecosystems.
20. Advanced technology facilitates concentration of ownership of production resources and results in over-exploitation of natural resources.
21. Local fish protein resources are exported to urban centres, domestic and foreign, thereby often depriving the poor of their only source of cheap protein.
22. Local fish protein resources are also often converted to feed animals whose meat is then consumed mostly by the rich. (A similar process is often carried out by exporting animal feed and importing animal meat; as a consequence more protein is exported than is imported, to the detriment of the poor.)
23. Commercial fishing is one facet of a generally growing dependence upon foreign capital sources, markets and technology.

### **Commercial exploitation of forest resources**

24. Forest resources are being exploited at an alarming rate, with virtually no effort at replacement. This exploitation is usually carried out by those with wealth, power or influence, in collaboration with multi-nationals.
25. Important components of subsistence production (e.g. firewood, thatch, medicinal plants, food supplements) are denied to those who have traditionally had access to them in forests as a matter of right.
26. Watersheds are disrupted with consequent major erosion and silting (e.g. of dam reservoirs). A result is a worsening cycle of flood and drought.
27. Resident populations are displaced.
28. Production resources are concentrated in the hands of a few, usually outsiders.
29. Potentially vital genetic resources are destroyed, ironically as part of the same global process which has developed techniques for exploiting genetic resources as such.

### **Banking practices in rural areas**

30. Banks in rural areas mobilize rural savings but use only a portion of the capital thus accumulated for loans and investments

in the area. The remainder is transferred to urban centres where it is used for loans and investments in urban or other more profitable areas. The result is that capital is siphoned off from rural communities and their development is retarded.

31. Often rural banks are owned or controlled by a rich family or families who utilize the savings mobilized by the banks to expand their own businesses or agricultural holdings, and to acquire the holdings of small farmers who are unable to meet their obligations. This leads to further concentration of wealth and control of land resources.

32. The practice of 'supervised credit'\* often leads to overpricing of agricultural inputs and to inputs that are required by government policies but which farmers may not need to use.

### **Tourism policies**

33. Allocation of scarce resources for tourist projects (hotels, department stores, highways, airports, etc.) and luxury imports for tourists (which the elite also consume), diverts or at least diminishes resources that could be used to provide essential public services to the poor (feeder roads, schools, potable water, sewage, medical care, etc.).

34. Communities living along beaches, lakes and mountain sides are often displaced to make way for tourist resorts. This displacement marginalises the members of the communities and destroys the communities themselves.

35. National culture and identity is destroyed or eroded by:

- the adoption of consumerism and other materialistic values of tourists;
- the debasement of cultural practices to make them more attractive to tourists.

36. The moral standards of the people suffer from the inculcation of obsequiousness towards tourists and the encouragement of prostitution of women (even of children), gambling, drugs and other vices.

37. To attract tourists, wages are kept low. This adds to the pressures to keep prices for agricultural commodities low, and contributes to generalised rural impoverishment.

\* 'Supervised credit' means that the lender supervises the manner in which the loan is used. In some cases the loan is partly in cash and partly in kind (seeds, fertilizers, pesticides, etc.).

## Monopolies

38. It has been noted with serious concern that some governments have created, or supported the creation of, monopolies both local and foreign in the production, processing and marketing of certain agricultural products, usually with externally controlled market mechanisms.

39. Some governments have established private internal monopolies for trading, for example in copra, rice or sugar. The intention is to cut out middlemen and develop a stronger relation to outside markets. The basic objection is that they are controlled by very few people who are not accountable to the small-holders.

40. The creation of monopolies has caused:

- the selling of their products by the farmers at prices dictated by the monopolies;
- the deprivation of the farmers of their rightful share of the income from the sale of their products;
- the concentration of resources or wealth in such monopolies;
- the lack of incentives on the part of the farmers to increase their productivity;
- the weakening, if not loss, of faith of farmers in the sincerity of the government to protect and promote their interests as against big business or vested interests.

## Agricultural pricing policies

41. The difficulties of small-holding producers are aggravated by low agricultural prices imposed by governments in support of urban policies (e.g. to maintain low wages in export-orientated industries). This makes it increasingly uneconomic for small-holders to undertake food production for domestic consumption and adds to the pressures on them to sell their small-holdings, resulting in greater concentration of rural land-holdings and wealth.

42. Cumulatively, the above policies have the effect of destroying the structure of rural communities, creating many imbalances and driving the farmers, and their children, to flee the rural areas, adding to urban poverty and such social effects as urban prostitution.

43. Where governments are not truly representative of the people, there is a lack of political will to change their circumstances.

## Recommendations

44. The interaction of human rights and agricultural policies is clearly a complex process, with a substantial element of unpredictability. It is vital, therefore, that all development policies incorporate procedures for the participation of the intended beneficiaries in the formulation, application and review of the policies. To further this, the following recommendations of the Food and Agriculture Organization (FAO) 1979 World Conference on Agrarian Reform and Rural Development should be implemented.

- Remove all barriers to the free association of rural people in institutions of their choice and ratify and enforce ILO Convention on the organization of rural workers, No. 141.
- Encourage the establishment of self-reliant local and national federations of peasant and worker associations with a minimum of government supervision over their activities.
- Encourage people's organizations to develop self-reliance at community level and assist them in such areas as meeting legal requirements, training of leaders and other initial needs, while exercising care that their independence is not compromised.
- Decentralise institutions of government to enable people's participation in the planning and formulation of development programme relating to their regions/areas.
- Involve organizations of intended beneficiaries of land reforms in the redistribution of land and water rights.
- Channel publicly supplied credit and material inputs, where feasible, through organizations of smallholders, beneficiaries of land and tenure reform and other peasant groups.

45. Agricultural and economic policies should be directed to ensure an adequate livelihood and employment for the rural population, rather than to capital intensive production which reduces employment and is destructive of the rural communities.

46. Educational opportunities in the rural areas should be increased so as to create more potential for employment.

47. Studies should be carried out in consultation with the rural poor about their problems and possible solutions formulated.

48. Greater priority should be given to policies aimed at intensive production of essential food crops by smallholders to ensure food security for the local and national population, using appropriate technology. This will make possible the reduction of rural poverty,

check the exodus from rural to urban areas, and, by making the country as far as possible self-sufficient in food, establish the basis for a truly independent economy with freely chosen development policies.

49. Small-holding farmers should be adequately represented on the boards of any trading monopolies established for processing and marketing their produce.

50. The exploitation of forest resources in the region should be drastically limited, and where permitted should be subject to a condition that cleared areas are fully replanted, unless converted to appropriate agricultural use.

## II. Land Reform

### Conclusions

51. Traditionally agricultural land was fairly distributed in small holdings in most countries of the region. During the colonial and post-colonial period the pattern changed and agricultural land became unequally distributed. This has led to social and economic inequalities as well as grave social unrest.

52. Over the years, in some cases for a century or more, there have been efforts by governments to seek to remedy this situation. After World War II these efforts were intensified with the adoption of land reform programmes.

53. These programmes have included different forms of tenure, including absolute ownership, long leases, periodic tenancies, and purchase on mortgage or by a long-term contract. They provide for different forms of rental and payment, including crop-sharing arrangements.

54. In some cases a public authority first acquires the land to be distributed, and then conveys it over a period of time to the new owner. In other cases, the law provides for purchase by the peasants direct from the landowners at a negotiated price which, though something less than market price, is often high.

55. In one country there have been land distribution programmes which provide land for specific agricultural production laid down and controlled by a government corporation. Similar programmes are under contemplation in other countries in the region.

56. By and large land reform schemes within the region have so far not achieved their goals. One cause of failure has been that



the redistribution of land has not been accompanied by effective assistance and support for farmers to obtain seeds, fertilizers and other necessary inputs as well as credit, transport and marketing facilities.

57. Another cause of the failure has been an excessively paternalistic attitude by the development authorities, who have often retained detailed control over the farming of the land, thus preventing the development of initiative, self-reliance and cooperation among the intended beneficiaries. As a result, even in countries where there are no longer large landowners, a true grass-roots democracy has not been achieved and the intended beneficiaries remain in a subservient role.

58. Land reform has also been abused and its purpose defeated by land distribution not to peasant farmers but to privileged groups, including retired military or police personnel. In other cases, there has been corrupt distribution to those responsible for the administration of the programmes or to their friends and families, or distribution has been subject to political influence, creating in many cases new absentee landlords.

## **Recommendations**

59. The objective of land reform schemes should be to assist the rural poor to achieve security of tenure and economic security and viability and to make land available to disadvantaged sectors of the rural community. It should not be seen merely as a means of transferring land ownership. Its objectives should include the liberation of land workers from the bondage of poverty and exploitation, enabling them to overcome their conditions of subservience and dependence and develop individual initiative and ensure their participation in the formulation and implementation of the programme.

60. Experience shows that no land reform scheme will achieve its objectives unless the intended beneficiaries are free to mobilize and organize themselves to promote and secure their rights to cooperate in implementing the programme, in working the land, and in promoting their social and cultural development.

61. While land reform schemes can embrace different forms of ownership, preference should be given to those which ensure security of tenure, such as full ownership, individually or in cooperatives, or long-term leases.

62. Land distribution or redistribution will not by itself solve the problems of the rural poor. It needs to be complemented

within a more comprehensive agrarian reform programme by agricultural and economic policies taking account of their needs, and by the creation by the farmers of their own cooperative organizations for obtaining machinery, fertilizers, seeds, water resources and other inputs, and facilities for transport and marketing.

63. Governments should establish agriculture credit banks empowered to make loans on realistic terms to beneficiaries of land reform programmes, to assist them to purchase their land and to acquire the necessary inputs for their production. These banks must be seen as part of the agrarian reform programmes, committed to helping them achieve their objectives.

64. Farmers should be entitled to relief against forfeiture of their land when they are unable to fulfil their obligations due to circumstances beyond their control, such as crop failure.

65. Agrarian reform law should:

- make clear the object of land reform schemes,
- establish the rights of the beneficiaries,
- make provision for the necessary forms of assistance, and
- create a truly independent specialized Agrarian Tribunal with speedy and simplified procedures to determine appropriate compensation for acquired lands, to settle disputes and, where necessary, to give relief against forfeiture. The Tribunal may be composed in part of non-lawyers.

66. Experience has shown that the implementation of land reform programmes, including the independence and effectiveness of agrarian tribunals, depends upon a sustained political will to achieve the above objectives.

67. Development authorities should recognize that non-governmental organizations have an important role to play in educating the public about land reform and in implementing land reform programmes, and the authorities should enlist their co-operation.

68. Governments are urged to ratify the ILO Conventions on freedom of association (No. 87) and on the organization of rural workers (No. 141), and to apply the ILO Recommendation 149 on the means of encouraging the growth of organizations of rural workers.

### III. The Role and Status of Women

#### Conclusions

69. It is to be recalled that the General Assembly of the United Nations, convinced that the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women as well as men in all fields, affirmed in Article I of the Declaration on the Elimination of Discrimination against Women: 'Discrimination against women, denying or limiting as it does their equality of rights with men, is fundamentally unjust and constitutes an offence against human dignity.'

70. Nevertheless, in some instances, existing laws, their formal interpretation, and prevailing customs discriminate against women. Women are sometimes barred from holding certain posts and jobs even at village level. Further, their position in family law is not always on an equal footing with men. In many areas administrative or governmental practices result in de facto discrimination in the application of laws and customs.

71. Problems of discrimination against rural women need to be examined in the context of development.

72. Traditionally, inequality between men and women in rural areas has been perpetuated by lack of women's education and certain cultural values and taboos preventing women's participation in the decision-making process or in community affairs.

73. In the process of urbanization and rural exodus, those women who stay in rural areas have increasingly become the de facto heads of households through separation, male migration and male unemployment. Those women who migrate to cities often suffer from various forms of exploitation. Being uneducated, unskilled and unorganized workers, they are forced into low paid jobs, often with occupational hazards severely detrimental to their health and that of their unborn children. Due to ignorance of their legal rights, they do not benefit from minimum standards of labour protection. Others are driven into exploitative services and occupations, including 'masseuses', social escorts, call girls or straightforward prostitutes.

74. In disadvantaged communities it is the women who suffer most when there is a deterioration in the physical environment. Polluted water and deforestation bear most heavily on women because traditionally it is the women who are the carriers of water and firewood for their family's drinking and fuel needs, in addition

to being the main providers of the subsistence needs of their families.

75. For the most part women in rural areas do not have their own independent organizations to promote their own interests and development. Where they exist they are often not truly independent.

76. With the attainment of true equality not only will the unity of the family be maintained but the quality of family life will be enhanced.

### Recommendations

77. Taking into account specific socio-economic and cultural conditions which affect rural women in South East Asia, the following recommendations were made with a view of improving the status of rural women.

78. More systematic research and data collection should be carried out to evaluate the role and contribution of women and children in the domestic and subsistence sector. The treatment of women in quantitative analysis should be reviewed and all male bias should be removed from data collection.

79. Due and proper recognition should be given to the economically productive and socially indispensable role of women in the home, in particular

- in preparing development plans,
- in devising educational schemes, and
- in compiling statistics.

80. Governments are urged to establish independent commissions, which include representatives of women's organizations, religious and social institutions, in order to study and review complaints of de jure and de facto discrimination against women, and to make recommendations for improvement through new legislation, affirmative programmes and court action. These commissions should be staffed and controlled by women with adequate funding and top priority given to its programmes.

81. The full integration and participation of women in development must not be considered as a marginal issue. Nor are women's programmes to be considered as welfare-oriented programmes in the same way as those of the handicapped or the aged, programmes which are usually among the first to be cut back financially in government budgeting.

82. Women must be able to have their own independent organizations to enable them to further their own interests and development and to influence policy and decision-making.

83. At the village level, women should have their own committees where they can be free to voice their opinions, which may not be possible in a male dominated environment. Women should employ traditional existing structures to achieve a greater participation and to influence policies and decisions, for example in reciprocal labour and work groups at the village level, as well as in marketing institutions and in cooperatives and rural credit institutions.

84. Although equality before the law is generally accepted, efforts to make women aware of their rights under existing laws should be increased. Information departments, informal education institutions, legal aid bureaus and women organizations should be strengthened and their access to the rural areas facilitated.

85. Basic education on matters of direct concern to daily life in the rural areas such as food and hygiene should be given to all members of rural communities regardless of sex.

86. Equality of boys and girls in school attendance should be enforced and facilitated through social and economic measures, such as providing free books, free school meals and improved transport.

87. Equal opportunities for women to obtain secondary and tertiary education should be established through open examinations, uninhibited choice and availability of scholarships, in particular for women from the rural areas.

88. Women should be educated and trained both formally and informally so that they can participate actively in the decision-making process.

89. Where appropriate affirmative action programmes should be undertaken in order to ensure equal opportunities for women, such as positive enabling legislation to enforce equality of the sexes.

90. Obstacles to women's participation in the decision-making bodies of political parties should be eliminated.

91. Women's overwork is one of the major obstacles to a better life and health for themselves and their children. Women's burdens must be lessened so that they can devote more time to the welfare of their families and to cash generating activities. In this respect appropriate technology has an important role to play.

92. Any technology to be meaningful to women must thus focus on their needs. Technological changes in food production or agri-

culture must not displace them from employment or deprive them of a means to earn an income. They must not be socially and culturally disruptive. They must be energy saving and must include time-saving machines which women can operate themselves, such as hand operated hulling machines and simple tools for weeding or for carrying and storing water.

93. Women must share in improvements in agriculture and food production. Agriculture extension programmes and courses conducted by the Ministry of Agriculture, universities or others must be open to women. They should include training in food production, processing and marketing. Subsidies, incentives and aid must also be extended to women. These can be effective ways to create employment for women in the village instead of their drifting to towns to seek low paid jobs at the expense of community ties and relationships.

94. Women should have a choice whether to remain at home or to go out to work, and should be free from restraints in law or in custom in exercising that choice.

95. Health and nutrition programmes must be relevant to the needs of women in these areas. More research with the active participation of rural communities should be carried out on local foods, correct weaning foods, and the availability of cheap and nutritious foods. Consumer education has an important role to play in making people aware of the dangers of additives, dyes, marketed foods and unethical sales marketing by manufacturers.

96. Breastfeeding should be actively promoted. As a result of aggressive sales promotion of powdered milk by multinational companies, many mothers have rejected breastfeeding for bottle feeding, often with very tragic consequences for the health of their children.

97. More research should be carried out into traditional and safer methods of birth control which will not affect their health and the health of their children, and which will enable them to have more control over their own fertility. Education in such methods of birth control should be made generally available.

98. Women's issues and problems are part of other socio-economic and socio-cultural problems in our society. Hence in the fight for a better education, status and role of women, men have also to take an active part in programmes aimed at improving the conditions of women. This may sometimes call for a change of attitudes in men towards women.

#### IV. Participation in the Decision-making Process

99. Many of the people in the world suffering from hunger and deprivation are to be found in South East Asia. They are numbered in tens of millions. Of the poor and deprived, the bulk are to be found in the rural areas where 70% to 80% work and live. Indeed, in spite of development efforts, most Asian societies, by and large, are characterised by greater poverty, greater unemployment, and greater social and economic inequalities.

100. Rural people are in poverty not only because they lack the resources essential to a dignified human existence but because they lack the possibility of participating in processes and institutions which control these resources. There has been — and continues to be — a domination of the production and distribution system by elite groups and by international forces. These factors together with colonial and foreign domination and the present international economic order, which is weighted in favour of the industrialized countries, have led to the wide disparities in the distribution of income, wealth and power.

101. It can also be said that the price for urban industrial development has been paid for by those who live and work in the rural sector. In this scheme of things, peasants participate in economic processes which do not result in their development but which benefit the dominant urban elites. Unless opportunities are opened to the rural populations for active participation, the conditions which have reduced them to abject poverty, dependence, and domination will remain.

102. Why have the rural poor not so far participated in development processes and advancement of their own interests? The answer appears to be found in people's attitudes and values as much as in legal and structural realities which have effectively stifled their efforts toward participation. The main thrust, therefore, of efforts toward organization of the rural poor should be to overcome existing

- attitudes and values, and
- legal and social structures and practices,

both of which are formidable obstacles to such efforts.

103. The countries of South East Asia may claim that they have constitutions or basic laws that recognize freedom of association for all. While this is generally true, the fact is that freedom of association is restricted in practice by laws and policies imposed in the name of national security and national unity.

104. Law enforcement agencies seem to have a predisposition to prohibit or severely restrict the exercise of freedom of association rather than to recognize its importance, much less permit its exercise. Put at its lowest, they have failed to curb or bring to justice those who harass, threaten with death, or assassinate organizers and leaders of rural workers' organizations.

105. The rural poor like everyone else possess an innate sense of social justice, but are generally ignorant about their rights. Even when they have some notion of their rights, they often are not aware of the urgent need to organize themselves in order to assert and realize these rights.

### **Recommendations:**

106. Given the above situation, certain specific measures should be undertaken in order that the rural poor may be organized, and through their organizations may participate at local, regional and national levels in the following aspects of the development process:

- studying and identifying their needs,
- formulating and deciding on the development programmes to overcome them,
- implementing these programmes,
- monitoring and reviewing their progress and effects,
- deciding what further measures are needed.

107. To enable rural organizations to participate in this way it is essential that they and their expert advisers have access to all relevant information.

108. The fight against rural poverty and apathy must start with the awakening of the consciousness of the people to their own rights and to the need to organize themselves. By establishing strong, independent and self-reliant organizations, the rural poor could then:

- enhance their ability to assert for themselves their right to development,
- alter the structures of power, of economic benefits and of institutions which deprive them of their human rights; this process should be linked to programmes for self-reliant development.
- participate in making decisions not only about the process of distribution of goods, where they are often in a position of disadvantage through indebtedness, but also about the



process of production, e.g. what crops to plant, when, and what inputs to use.

109. The legal restrictions now imposed on freedom of association should be repealed. Legal and political structures should be created to facilitate and promote freedom of speech, the press, and assembly, and the exercise of the right to vote.

110. Law enforcement agencies should protect the exercise of freedom of association and uphold the integrity of organizations of rural workers and peasant farmers. Any effort to restrict freedom of association and assembly should be resisted by all lawful means, including by action in the courts.

111. Extensive programmes of rural education should be undertaken to help the rural poor to organize themselves. These should go beyond the conventional programmes to promote functional literacy or to train agricultural specialists and technicians, and should deliberately seek to awaken the consciousness of the rural poor of their rights and of the need to organize themselves. In particular, they should strive to educate the rural poor on the underlying causes of their poverty and on how they could help to overcome these causes through their organized efforts in cooperation with others.

112. The importance of improving the situation of the rural poor's civil and political rights, such as the rights to free speech, free press, assembly and the right to vote and participate in government, should be understood and recognized by governments. Non-governmental organizations (NGOs), national and international, of an educational, religious, social and civic nature, should be allowed to highlight this importance in their activities. The vital role of NGOs in the promotion of the organization of the rural poor and their effective participation in development should be recognized. Therefore, the organization and independent functioning of NGOs, including workers and student organizations, should be encouraged and assisted.

113. International and regional intergovernmental organizations and specialized agencies are urged to give priority to programmes which promote the self-reliant organization of the rural poor. Equally governmental and non-governmental agencies active in development assistance are urged to give priority to participation programmes which enhance the self-organization of the rural poor and to make use, where possible, of non-governmental channels.

114. The countries of South East Asia should ratify the ILO Convention on the organization of rural workers (No. 141) and should implement the suggested guidelines in ILO Recommendation

No. 149 on means of encouraging the growth of rural workers' organizations.

## V. Social and Legal Aid Services

### Recommendations

#### *Social services*

115. All governments in the region are urged to intensify their efforts and give priority over all other objectives to providing the basic social services required by every rural community.

116. These should include:

- adequate food and nutrition;
- safe drinking water;
- clean air;
- free and compulsory education equivalent to that in urban areas;
- free education in health and hygiene;
- medical care consisting of at least a multi-purpose health clinic with not less than one trained paramedic;
- voluntary family planning;
- adequate housing;
- access to roads and public transport;
- appropriate technology to enable them to meet their energy and other needs.

117. There should be maximum participation by the beneficiaries in the planning, provision and maintenance of these services. The services should be seen as essential to the life of rural communities and not as a 'welfare subsidy'.

118. Education is of primary importance for the proper acceptance, maintenance and expansion of these social services. Governments are strongly urged to rechannel a major share of their resources to providing free education for all up to secondary level, as well as adult education and vocational training. Governments are also urged to prepare urgently an effective programme of scholarships designed to provide greater opportunities for university education to students from the rural poor.

119. Governments are urged to make use to the fullest extent of the contribution which non-governmental organizations can make towards the provision of social services.

### *Legal aid services*

120. Lawyers and bar associations have the duty to assist in protecting and vindicating the human rights of the poor in rural South East Asia and in assisting their efforts to achieve development. The Seminar appeals to every lawyer and law firm in South East Asia to offer at least 5% of his/its time for free legal aid and/or assistance to the poor and disadvantaged sectors of society, and appeals to bar associations to organize and make available these services to the public.

121. The Seminar commends those law faculties within the region which have instituted legal aid and assistance programmes as part of the training of students and urges that this work be recognized as forming part of the curriculum for which students can gain credit.

122. The need for a new breed of lawyers who see the true purpose of the legal profession as the establishment of justice in human relations should be recognized. Law faculties are urged to reform their curricula so as to awaken social concern in their students, in particular to defend the disadvantaged and oppressed in society. Courses on human rights and on socio-economic aspects of development should be included. Programmes of continuing legal education should also focus on these subjects.

123. All countries of the region are urged to ensure that any unrepresented person charged with an offence punishable by execution, corporal punishment or imprisonment of one year or more shall be accorded the services of counsel appointed by the Court.

124. Traditional legal aid schemes for the representation in conflict of individual litigants are not in themselves sufficient to meet the needs of the poor for legal assistance. Disadvantaged sectors of society can and should be assisted to secure their rights by legal assistance in the form of:

- information and education about their collective and individual rights and available legal remedies;
- defending such rights in class actions as well as in individual cases;
- explaining to them the purpose and nature of legislation affecting them and what it requires them to do or not to do;

- assisting them to formulate and submit their demands to the authorities;
- negotiating with authorities on their behalf;
- assisting them to form organizations to secure and defend their rights.

125. In this way, lawyers and legal aid groups can assist the rural poor:

- to become more aware of their legal and human rights;
- to organize themselves in order to secure legal recognition of human rights not hitherto recognized and to secure their effective enforcement;
- to participate in the processes of decision-making, implementing, monitoring, evaluating and revising policies affecting their development and in demanding accountability from those who are charged with the duty of implementing these policies;
- to create speedy and inexpensive methods of resolving conflicts that are more in keeping with their culture and accustomed social processes;
- to devise alternative legal arrangements or agreements to safeguard their interests in such matters as the protection of employment, traditional rights over communal lands and resources, and environmental protection, so that the benefits of technology and scientific discoveries are used in ways that will benefit and not harm them.

126. Lawyers and legal aid groups should consider adopting innovative concepts and methods, among them:

- training of persons from the communities as paralegals, who will give advice and assistance in routine cases, undertake preliminary fact finding, completing and filing of simple legal documents and representation in simple cases where qualified counsel are not available;
- conducting mobile legal aid clinics to rural areas;
- publishing primers in local languages on legal and human rights and related topics;
- developing indicators of respect for human rights;
- using the media to inform the public;
- forging links with national and international non-governmental organizations.

127. In performing these tasks, lawyers and legal aid groups should be able to obtain the full support and cooperation of governmental and non-governmental legal and other organizations, both national and international.

128. Bar associations and courts should ensure that disciplinary codes and professional ethics do not prevent legal aid lawyers and groups from making known that their services are available to those who need them.

129. Lawyers and legal aid groups, regardless of their political beliefs, should not be subjected to harassment or imprisonment even when they are called upon to question the legality of government policies and actions.

130. Lawyers and legal aid groups should not be prevented by bar associations, courts or governments from providing legal aid independently of any legal aid systems operated by governments or bar associations, nor should such independent groups be prevented from obtaining funds nationally or internationally.

131. Governments should support private groups giving legal aid to the rural poor by allocating funds and resources to them, provided always that the independence of the lawyers and groups concerned is maintained. The funds and resources should be allocated by an independent board on which the rural poor are represented.

132. Where governments establish legal aid schemes, the independence of lawyers as well as others employed in them should be ensured by such measures as security of tenure and freedom to advocate principles or policies counter to those officially advocated. Their promotion should not be dependent upon or hindered by their advocacy for or against official policies or programmes.

133. The Seminar warmly welcomes the ESCAP programme on law and participation in relation to development and urges that it be continued, with the recommendation that close links be established between legal aid lawyers and groups and ESCAP and other United Nations bodies working in the region.

## **VI. Natural Resources and the Environment**

### **Conclusions**

134. The concept of human rights is broader than the concept of development which is currently being pursued by most governments in the region. Development policies which concentrate on

relieving 'absolute poverty' or on meeting 'basic needs' can properly be adopted as matters of first priority, but some even more essential needs should not be overlooked, namely the fundamental needs for — and therefore rights to — air, water and land. Man exists, changes and develops — individually and socially — within the matrix of nature, whose prime and elemental resources are air, water and land.

135. Two consequences flow from this:

- these primary and fundamental rights should not be circumscribed by inequitable distribution of land that benefits some human beings at the expense of others;
- human rights imply human obligations — not only to human beings but to nature herself. This is seen most clearly in the case of the primary natural resources. The rights to use nature's air, water and land resources in ways beneficial to all entail reciprocal obligations to maintain, conserve and develop further these natural resources.

136. Respect for human rights should be an essential part of the goals of any development strategy. Development should, therefore, be seen, interpreted and monitored in terms of human rights. Priorities of development should be revised to give a foremost place to the above-mentioned primary or fundamental rights. National and international policies in the fields of ecology and environmental concern should ensure human rights to clean air, water and ecologically viable land.

137. Other rights can be regarded as supportive of these primary rights and can be categorised as:

- life rights — such as the rights to food, shelter, clothing, health, security and survival;
- work rights — such as the rights to satisfactory and creative work, life enhancing levels of earnings, humane working conditions, and satisfactory relations of production;
- socio-political rights — such as the rights to control over production resources, community self-management, and meaningful participation in the processes of change.

138. Various experiences in South East Asian countries have shown that destruction of the environment results in the violation of human rights. The following are some examples:

- (a) massive deforestation caused by indiscriminate logging, inappropriate systems of farming, mining, road construction, resort complex construction and other such activities, resulting in

- dislocation of indigenous people or cultural minorities from the land that has been traditionally theirs for centuries;
  - the people, especially the rural poor living within and around the forest fringes, being deprived of a rich resource that has freely provided them their livelihood, the satisfaction of their basic needs and various amenities;
  - erosion of watersheds, leading to floods, silting up of rivers and consequent drought during dry periods, thus depriving the general population of basic needs for fertile land and clean water;
  - future generations being deprived of the benefits coming from a rich and diverse genetic pool.
- (b) pollution of air, water and land by industries and mining and by the use of dangerous chemicals in agriculture, which
- endangers the health and safety of the people;
  - robs the people, especially the rural poor, of their primary source of food and livelihood by incapacitating the productive potentials of natural resources;
  - renders the landscape and the total environment ugly and unfit for restful habitation.
- (c) overfishing by big local and foreign owned trawlers, resulting in
- the callous depletion of an important food resource of the people;
  - local fishermen being deprived of their primary source of livelihood;
  - the transfer of the benefits derived from a local resource into the hands of a few and/or to foreign entities.
- (d) importing into the region dangerous technologies such as nuclear power plants and highly pollutive industries, which
- endangers the health and safety of the people, not only those living near such technologies but throughout the whole region for generations and generations to come;
  - draws away, through highly capital intensive technologies, much needed resources from more productive endeavours that benefit the rural poor;
  - renders the recipient of such technologies economically and politically dependent on the exporting countries.

139. All these experiences are just some of the growing environmental problems of the South East Asian region. They are manifestations of a prevailing socio-economic and political system, both on the local and international level, that puts the emphasis on profits from materialistic production for a few at the expense of nature and of the great majority of the rural poor.

### **Recommendations**

140. The predominant development strategy in the countries of the region should shift from maximisation of economic growth to the satisfaction of the basic needs of the whole population. Although governments at times claim that they have done this, experience shows that in practice they still basically adhere to economic growth as the measure of development.

141. The present over-dependence on economic policies based on the depletion and exhaustion of natural resources (e.g. over-rapid exploitation of oil, forests, etc.) should be greatly reduced. Instead there should be a policy of resource conservation and rehabilitation.

142. All development projects should undergo an environmental impact assessment (EIA). The social, cultural and economic costs should be carefully weighed against the benefits to be brought about by projects. Projects which will cause damage to the total environment should be revised or rejected.

143. Development projects should also be subjected to a socio-economic impact assessment to determine their social and economic costs (e.g. through displacement of homes, dislocation of economic activities and health problems). These costs should be carefully weighed against the benefits to be brought about by the projects. The assessment should also consider which groups of people will benefit or lose out as a result of such projects. Needless to say, development projects should be biased in favour of the poor.

144. The intended beneficiaries of a project should be fully consulted before project planning and implementation start, and the results of environmental and socio-economic impact studies should be fully made known to the public.

145. Specific mechanisms should be introduced to allow full participation and the active expression of people's views on development projects.

146. Programmes for legal aid and assistance should include the promotion of measures for the protection and enhancement of the



environment, and programmes to inform people that the right to a clean environment is their basic right and that there are laws which provide for the protection of this right.

147. Projects or industries which are not allowed in their home countries because they create environmental problems must not be exported to and allowed to operate in the South East Asian countries.

148. Governments should encourage the use of appropriate technologies that utilize local resources properly and take into consideration the natural system in operation. The necessary banking and financial policies should be established to support this.

149. Formal and non-formal education on environmental issues and natural resource conservation should be given to people at all levels.

150. The South East Asian region should be made a nuclear free zone, in which no nuclear power plants, nuclear processing plants, military bases storing nuclear bombs, or nuclear waste dumps would be established.

151. Non-governmental organizations should seek to develop and strengthen their links with communities in rural areas and to monitor the effect of development through relevant community level statistics.

152. NGOs should undertake activities leading to a policy of resource rehabilitation and conservation, and should monitor the attainment of this policy in development activities.

153. The work of NGOs should be encouraged by governments and their activities increased.

154. Regional and international links among NGOs should be established. Regional offices of the UN Environment Programme (UNEP), Food and Agriculture Organization (FAO), World Health Organization (WHO), International Labour Organization (ILO), etc. should organize annual regional meetings and/or seminars for NGOs within their regions, and thereby help to create closer links among them.

155. The strong recommendation adopted by governments in the action programme of the World Conference on Agrarian Reform and Rural Development in 1979, stressing the need for non-governmental action in all forms of national development, should be implemented.

156. International bodies within the UN system, including the UNEP, UN Development Programme (UNDP), WHO, ILO, FAO and

the UN Educational, Scientific and Cultural Organization (UNESCO), should give all available forms of support to NGOs in order to strengthen their activities. For the most part such support is lacking and the work of UN agencies is usually carried out solely with governments.

157. UNESCO should be requested to help bring about a holistic perspective and integrative approach to environmental problems and to promote education of the people on these problems through the mass media.

158. UNESCO and UNEP should help those countries which do not have environmental education programmes to develop curricula for integrating environmental concerns in various subjects at the school, college, teacher training and university levels.

159. International financial institutions, e.g. International Monetary Fund (IMF), World Bank, Asian Development Bank (ADB), should ensure that an independent environmental impact assessment (EIA) is properly carried out on any project which they intend to finance. Only projects which pass the independent EIA should be financed. In making the environmental impact assessments, the UNEP, WHO, ILO, and national environmental NGOs should be consulted.

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160. At the Conclusion of the Seminar a number of suggestions and requests were made for follow-up action. These included the following proposals:

- a regional body should be created to monitor and follow up the recommendations of the Seminar;
- the ICJ should convene a meeting of law educators with a view to including an understanding of the environment and of economic and social problems in their curricula;
- the ICJ should undertake a review of international law and national legislation aimed at correcting misuse and abuse of the environment.

## OPENING ADDRESS

*YTM Tunku Abdul Rahman Putra Al-Haj*

Former Prime Minister of Malaysia

I thank you for the honour done me by the Consumers' Association of Penang and the International Commission of Jurists by asking me to officiate at the opening of this very important Seminar. The object of this Seminar is, as far as I understand, to discuss problems and other matters affecting the condition of life of the rural people and to improve their lot in order to enable them to participate more fully in the affairs of the country. In Asian countries, the rural people are backward, poor and ignorant. As such they can hardly be expected to know of their civic rights and their responsibilities and duties to the country in which they live.

In the colonial days, all the development in this country was confined to the urban areas and only the people living in the towns were provided with all the amenities of life. All roads were built leading from one town to another or from one big foreign-owned estate to another. Dwellers in the rural areas were neglected and were not provided with electric light, fresh water or any convenience at all. Rural dwellers could not get their produce transported to the town by roads and many of their products were left to rot.

On Independence we found that the average earnings of the rural people were just over M\$100 per capita, hardly able to meet the necessities of life, and the first thing the Alliance Government did then was to introduce the first Five Year Rural Development Plan by which the landless were provided with ten acres each to grow rubber, palm trees and other money earning produce in well laid out settlements with all facilities to make life more pleasant for them. Health centres, schools, police stations were built and agricultural centres were set up in most rural areas to teach them to make the best use of their holdings. Miles and miles of roads were built linking the towns and villages and the east and west coast.

As a result of these rural developments, conditions of life of the rural people improved considerably and the income per capita multiplied manifold. Today it can be said that the rural people of Malaysia are better served than those in many other countries in

Asia. In these development projects, thousands of millions of dollars were spent. Today the rural people, as electorates, have become a powerful factor in deciding the government of the country.

I can well understand the concern of the Consumers' Association of Penang and the International Commission of Jurists for the lot of the under-privileged rural folks. In most Asian countries, the plight of the rural people is most deplorable. The Consumers' Association would like to see more food grown and made available to the people at less cost, thus stabilizing the standard of living, and at the same time the rural people should also be taken care of and they should be put at parity with those living in the urban areas.

The International Commission of Jurists is interested in these people living in the rural areas from another angle, that of human rights. It realizes that these people cannot participate in the civic life of the country when their stomachs are empty and they are without a good roof over their heads. It must see that these people are well provided for.

To expect the Government alone to do all the thinking and the planning and to provide all the money is not enough. It is the duty of civic-minded people to contribute their share towards creating a better understanding among the people and, what is even more important, to keep out of the clutches and reaches of subversive elements and the communists and terrorists.

Your organizations have taken the right step in discussing this matter from time to time and submitting your conclusions and recommendations to the Government of the day.

I therefore congratulate the Consumers' Association of Penang and the International Commission of Jurists for their noble effort in holding this Seminar. I wish you every success in your deliberations and it is my privilege to declare your Seminar open.

## ADDRESS OF WELCOME

*S.M. Mohd. Idris*

President of the  
Consumers' Association of Penang,  
Malaysia.

On behalf of the Consumers' Association of Penang, I am very happy this morning to welcome all of you here at the Opening Ceremony of the Seminar on Human Rights and Development in the Rural Areas of the South East Asian Region.

CAP is greatly honoured to be co-organizing this important Seminar with the International Commission of Jurists.

The participants of this Seminar have been drawn from the different countries of South East Asia and other parts of the world and they have experience of working with the rural population in their own countries, helping them to progress on the path of development. I would like to wish you all a very pleasant and fruitful stay on this island.

The subject of human rights and development in the rural areas is very timely because our South East Asian countries are at the moment undergoing a rapid process of development, modernization, and social change.

It has become increasingly clear that economic growth by itself does not necessarily bring about benefits which are equitably distributed among the population. Many economists, development planners, and social scientists have come to realize that development must first and foremost benefit the poor people, raise their standard of living, and improve their quality of life. If these goals are not met, then economic growth by itself cannot lead to genuine development.

In most developing countries, including Malaysia, the majority of the poor people live in the rural areas. And when we talk about human rights and development in the rural areas, we have to remember that the most basic human rights of all are the rights of these people to a decent standard of living, and to a secure and improving source of livelihood. There can be no human right or human dignity until and unless people have a basic economic standard of well-being. Hence, the issue of human rights cannot be

separated from the issue of economic well-being or economic justice and economic rights.

In many developing countries, the planners are very often blinded by the superficial symbols of modernization, such as high rise buildings and offices, super highways, and large scale machinery in big factories. However, the development of these buildings and industries does not necessarily benefit those who live at the grass-roots levels of society.

Indeed, the rural population very often have to suffer because of displacement of their traditional activities due to the process of modernization and development. In our South East Asian countries, for instance, the livelihood of millions of traditional small scale fishermen has been threatened by the invasion of big trawler boats into their inshore territory and by the pollution of their waters by big industries. This renders the fishermen even poorer, while consumers are deprived of fish, a very important source of protein.

At the same time, many rural people involved in food production have found that their traditional livelihood is being threatened through the process of modernization, particularly housing development, industrial development, and road development. In many of our countries, padi farms, vegetable farms and fruit farms have to give way because the land is being converted to cater for houses, factories, roads and motorcars.

In the huge forest areas of South East Asia, which is the world's chief supplier of tropical timber, trees are being chopped down at an astonishing and dangerously high rate. This causes tremendous economic hardship to the hundreds of thousands of inhabitants of these forests, while the resulting wash-down of top-soil into the rivers causes severe flooding in the surrounding areas and towns.

All these examples which I have given may indicate that the planning of our development projects in the South East Asian region and indeed in almost all other regions in the world, have not taken into account the interests or livelihood of the bulk of the rural population. Ironically, whilst the rural poor is often said to be the target of development, very often they become the victims instead. They are the ones who suffer from the side-effects and ill-effects of rapid development.

Ladies and gentlemen, the Consumers' Association of Penang has been in existence for the last ten years. During this period of time, we have tried to highlight the issues of pollution, environmental deterioration, and the problems of basic needs such as food,

nutrition, health, and business malpractices. One of the main activities of CAP is helping rural communities which suffer from basic needs problems and from the side-effects of modernization, particularly pollution.

We believe that our work is valuable in lending a helping hand to these depressed rural communities so that they too can benefit from development. We are also able to give valuable feedback to the policy makers and the relevant government authorities so that they can take action to counter the ill-effects which are suffered by the rural population. We believe that non-governmental organizations like CAP can cooperate with the government in order to bring about genuine development at the rural grass-roots level. In doing this, of course, we believe that genuine and equal participation by the rural population themselves is very essential if they are to benefit from development.

Ladies and gentlemen, the rural areas of the South East Asian region are undergoing a tremendous transformation in the process of development today. I hope that during this Seminar, you will all be analysing and discussing this process of development and transformation in great depth, and that you will consider how such development and social transformation can be carried out whilst at the same time enhancing the human rights of our rural population.

Once again, on behalf of the Consumers' Association of Penang, I wish all of you a very successful Seminar, and once again I hope you will be satisfied with the warm hospitality and the natural beauty of our island of Penang.

We also hope that this Seminar will eventually lead to a greater awareness of the problems in rural development and will strengthen our resolve to help develop a better life for the rural population in our South East Asian countries.

## ADDRESS

*Param Cumaraswamy*

Member, Bar Council,  
States of Malaya.

The Bar Council feels honoured to have been invited to address the opening of this very important Seminar.

It is at a most opportune time that the International Commission of Jurists (ICJ) chose Malaysia as the forum for this Seminar. At a time when the Malaysian Government is in the process of implementing the New Economic Policy to restructure society the present Seminar is most welcome. I congratulate the Consumers' Association of Penang (CAP) for its ready co-operation extended in the organization of the week long sessions. CAP has our admiration for its efforts in championing the cause of consumer protection. It has even attempted to deal with complaints against lawyers!

Human rights are often shunned by governments particularly in the developing countries. They equate human rights with agitation for political and civil rights only. That this concept is far wider than that is evidenced by the Universal Declaration of Human Rights. That it includes socio-economic, educational and cultural rights is little known to many. It is lamentable to note that in this region only two nations have ratified the International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights.

Even the concept of the Rule of Law as propounded by Dicey has since been further expanded to include the advancement of socio-economic conditions. The final resolution of the New Delhi Congress in 1959 declared that the ICJ:

'Recognizes that the Rule of Law is a dynamic concept for the expansion and fulfilment of which jurists are primarily responsible and which should be employed not only to safeguard and advance the civil and political rights of the individual in a free society, but also to establish social, economic, educational and cultural conditions under which his legitimate aspirations and dignity may be realized'.

Since 1959 this concept has been further elaborated on the basis that specific legal and political rights have very little meaning or



relevance for those who are deprived of such basic needs as food, housing, employment and education. Thus the Rule of Law in this new and dynamic form corresponds very closely to the Declaration of Human Rights.

Often governments, particularly in the developing countries, come out with fine blue prints declaring bold and far sighted policies and allocating large funds for the development of rural areas and for the advancement of the have-nots. But these policies often continue to remain blue prints or, when action is taken to realize them, implementation is retarded. One common obstructive force to rural development in these countries is corruption. We often hear of cases of lands allocated and reserved for the landless being alienated to the rich. Funds budgeted for rural development are systematically syphoned out into the pockets of the wealthy. Very often these beneficiaries are the very people who are entrusted with the implementation of Government policies.

Corruption today is the cancer of society. Just as this disease gradually erodes life so will corruption erode society if unabated. While medical experts are striving to find a cure for this disease government leaders are resigned to the assertion that they cannot stamp out corruption. That may very well be so. After all even in the most disciplined state we sometimes hear of corrupt practices. However, widespread corruption in developing countries must be a source of alarm to all concerned. Yet the counter measures taken by successive governments to combat this evil is not commensurate with the high incidence. To put it starkly a government leader is alleged to have told someone some years ago that if he really clamped down on corruption he would hardly have any ministers left in his cabinet.

The Malaysian Government under the leadership of Datuk Seri Dr. Mahathir Mohamad and Datuk Musa Hitam has taken a step forward to combat this evil. They have virtually declared war against corruption and bureaucratic inefficiency. They have the full support of the Bar. By directive all public servants, including ministers, are now required to declare their assets. If their assets exceed their official emoluments and lawful acquisition they would have to explain the excess. If their explanation is unsatisfactory action would be taken. However laudable, this declaration is merely a departmental directive; it may not have the force of law. Just as the saying goes that 'justice should not only be done but must be seen to be done', so does 'Government action should not only be taken but must be seen to be taken'.

Therefore the next logical step in sequence for the Government, and I hope this will be done, is to amend the Prevention of Corruption Act 1961 to provide for the following offence similar to that in the Hong Kong legislation:

‘Any person who, being or having been a Public Officer — (a) maintains a standard of living above that which is commensurate with his present or past official emoluments; or (b) is in control of pecuniary resources or property disproportionate to his present or past official emoluments, shall, unless he gives a satisfactory explanation to the court as to how he was able to maintain such a standard of living or how such pecuniary resources or property came under his control, be guilty of an offence.’

I am not suggesting that with this amendment corruption can be wiped out completely. But such an amendment would go a long way to circumvent the problems of proving guilt today where the giver of the bribe is always a material witness. Very often a person who gives is reluctant to come forward. Further, equipped with such an amendment the high and mighty and the so called influential public officers, colloquially known as ‘the sharks’, can be brought to book. The complaint today is that the small fry are caught but the sharks are allowed to continue with their evil activities and amass considerable fortune at the expense of the national economy. The end result is that the poor remains poor, or sometimes poorer, and backward. Often the excuse given by the authorities is that the modus operandi of these influentials is so sophisticated that it is often difficult to detect. Well, the Government directive coupled with the suggested amendment could well be the solution.

The socio-economic problems and the needs of the people in the rural areas in the South East Asian region can never be tackled by mere written or spoken words and national ideologies. It requires positive action largely by incorruptible government servants dedicated to the cause of nation building for the betterment of all. Law reforms may count for nought if those who are entrusted with implementation go foul of the trust put in them.

On that note may I once again thank the ICJ and CAP for having invited the Bar Council and I hope your deliberations during the week will be fruitful, and I wish you all every success.

## ADDRESS

*Niall MacDermot*

Secretary-General of the  
International Commission of Jurists

It is a great pleasure for me to be able to welcome you all on behalf of the International Commission of Jurists.

It is a long time — too long — since we have organized a conference in South East Asia. Back in the 1960s we held an important international congress in Bangkok, and another in Singapore on Legal Education. This is, I believe, our first meeting held in Malaysia. We are deeply grateful to the Father of Independence, Tunku Abdul Rahman, for having consented to honour us by his presence on this occasion, and to the Lord President of the Federal Court, Tun Suffian, who is an esteemed member of our Commission, for having consented to deliver the key-note speech on our subject, namely Human Rights and Development in the Rural Areas of South East Asia. May I also express our sincere thanks to the Consumers' Association of Penang for agreeing to co-sponsor this seminar, and for the unstinting help they have given us in organizing it. I should also like to thank all those organizations, mostly church related, in Denmark, Holland, the Federal Republic of Germany and Australia which have given us financial assistance to cover the expenses.

The International Commission of Jurists is a lawyers organization devoted to the promotion of the Rule of Law or, in more modern terms, the legal promotion and protection of human rights. From the time of our Congress in New Delhi in 1959 we have recognized that as lawyers we should seek to promote economic, social and cultural rights as much as the civil and political rights which are a more traditional concern of lawyers.

This Seminar, as we explained in our letter of invitation, is one of a series we have been holding in recent years in different regions of the third world. Our intention has been not to seek to impose preconceived ideas of our own, but rather to create a forum in which lawyers within the region, together with professionals of other disciplines and representatives of trade unions, women's organizations, churches and others, can discuss freely those issues which appear to them to be of importance to their regions. The

programme we have prepared is the result of widespread consultation with many of you and with organizations to which you belong.

As a result of the experience of these seminars over the last six years our thinking as lawyers concerned with human rights has evolved considerably. We have come to see not only that economic, social and cultural rights and civil and political rights are of equal importance, but that this division into two sets of rights is somewhat artificial. Together they form one integrated whole, and the totality of these rights is relevant to any development which is commensurate with the dignity of man.

We have also become more concerned with the relationship between human rights and development. Sometimes undemocratic governments which suppress basic freedoms tell us, when we criticise their record, that we are Westerners (which is not true, as both our members and staff come from the different regions of the world) and that we do not understand their development problems. They say that they have to give priority, as they call it, to economic and social rights. Some have even suggested that freedom is a luxury which can only be achieved after they have attained a greater level of economic growth and abolished poverty. The implication is that poverty cannot be overcome while men are free.

Development experts and others working in the field tell us that, on the contrary, the reason the poor have made so little progress in the field of economic and social rights, is due to their inability to organize themselves and to formulate and press for their demands. In other words, they say that civil and political rights are essential to development. And when one looks at the distribution of wealth in these countries where freedom is repressed, we often find that the benefits of such development as has been achieved go to a small part of the population, to an urban elite, and that the poor have become poorer, relatively and sometimes even absolutely.

There has unfortunately been all too little cooperation between those who work in the field of development and those who work for improvements in human rights. On the one side the human rights activists have been more concerned with fighting against the worst violations of human rights, torture, political assassinations, prolonged detention without trial, lack of fair trial procedures and, most recently, massive disappearances. They have tried to bring these horrific violations to the attention of world opinion, and mobilise opposition against them, often without examining the deeper causes for these means of repression. Some of those working for development have been afraid of an intrusion of human rights

into their sphere, lest restriction on human rights in their countries be used by the richer countries as an excuse for restricting if not cutting off development assistance.

On the other side the development experts, and those who allocate resources for development, have resisted intrusion of human rights into their field, saying it is too political and that they want to keep politics out of development decisions. We find this an extraordinary argument, since no decision is of greater political consequence to a developing country than that of the development model which it adopts. This attitude has weakened in more recent years following the introduction of the basic needs approach to development. But basic needs, though they may be a first priority, cannot in themselves be an adequate answer either to the problems of development or to human rights needs.

These thoughts underline the new concept of the right to development, of which the author is our President, Judge Keba Mbaye of Senegal. This right has on more than one occasion been asserted by the UN General Assembly, and a Working Group of the United Nations Commission on Human Rights is at present engaged in formulating the right in greater detail. We have been taking an active part in this Working Group and have already contributed two papers to it. We hope that the work of this seminar may enable us to make a further contribution.

You may ask why our subject is confined to the rural areas. Why do we not concern ourselves also with the problems of the urban poor? There are several answers. In this, as in all regions of the third world, the great majority of the population live and work in the rural areas. Most of the poverty is in the rural areas, and the rural poor are less organized to assert and secure their rights. The problems of urban poverty are, of course, equally urgent and important, but urban poverty is largely derivative of rural poverty, and it seems useful, therefore, for us to concentrate upon the rural problems, which tend to receive less attention from human rights organizations. Finally, the legal profession in almost all countries is centred in the urban areas, dealing with urban problems. Apart from some very laudable voluntary efforts, the provision of legal services to the rural poor is almost non-existent, and the traditional training of lawyers ill-equips them to provide such services. A new approach is required for rural legal services, and this is one of the subjects for discussion in our Committees.

Our approach to this and other questions is not an academic one. It is action orientated, and we hope that there will result from

your deliberations Conclusions and Recommendations for further study and action, which will be of use both to ourselves and other organizations working at the international level, and to yourselves and others within your own countries.

# HUMAN RIGHTS AND DEVELOPMENT IN THE RURAL AREAS OF SOUTH EAST ASIA

*Tun Mohamed Suffian*

Lord President of the  
Federal Court, Malaysia

I am honoured to be invited to deliver a keynote speech, but the word keynote is rather frightening, because it assumes something grand, when what I am about to say is not. I would prefer to call what I am about to say a welcoming speech, in which I shall include a few observations relevant to the theme of our Seminar.

I am particularly honoured to be sitting on the same platform as the Tunku, the Father of Malaysia, who did so much to improve the lot of Malaysians, especially those living in rural areas, and who being a lawyer was concerned with the human rights of all Malaysians. I am particularly fond of him, as we were DPPs (Deputy Public Prosecutors) together. At one time the British thought that he was somewhat troublesome because of his political interest and offered him a judgeship which he refused. What a narrow escape he had!

The Tunku was a man of vision and under his leadership the country was able to achieve independence without bloodshed and with the nation united behind him. I doubt if he was happy as a DPP, because he always saw the big picture and was too kind, generous and soft-hearted to make a good prosecutor. If a man killed somebody, as often as not, the Tunku would be inclined not to advise prosecution — ‘after all, the man only killed his mother-in-law.’

Fortunately for the country, he left the Attorney-General’s Chambers, and went on to bigger things — and eventually proved that he was a statesman not only in Malaysia but also in the outside world.

I am also happy to be with Mr. Niall MacDermot our Secretary-General, a former Minister of State in the British Labour Government, whose concern for the underdog throughout the world is second to none.

I would like to welcome you all to Malaysia, and in particular to Penang, the Pearl of the Orient, of which we are rather proud.

Your choice of this island as the venue of this seminar was very flattering. Perhaps it is not surprising because in this fast moving age of technology, Penang has been able to maintain its sensible way of life where people still have the time to smile and be friendly and helpful to their neighbours and guests. I sincerely hope that while in Malaysia, not only will you have a fruitful seminar, but you will also have time to look around, visit other parts of the country, meet some of our people, and find out for yourself what we have tried to do since independence 24 years ago, and judge for yourself whether or not we are going in the right direction and whether or not what we have achieved so far has been worthwhile.

I would like on behalf of all members of the Commission to congratulate Mr. Keba Mbaye, our President and the President of the Supreme Court of Senegal, who unfortunately is not with us today, on his recent election to the other ICJ, the International Court of Justice. His election is an honour not only for him and his country but also for our Commission which now counts two members who are also members of the World Court. We are proud to be associated with him and know that he will discharge his new responsibilities with the same distinction as he did his responsibilities as a member of the Senegalese judiciary.

Ladies and gentlemen, I would like now to say publicly what I have not had the opportunity of doing so far, that is, acknowledge the great honour conferred on me by my election as a member of your Commission, a body composed of distinguished jurists. The ICJ, under the wise guidance of our President and that of Mr. Niall MacDermot, our Secretary-General, and their predecessors, is well known for emphasizing that the law is supreme, that we are governed by the rule of law, that it be enforced justly, and that for this purpose, the judiciary should be independent, free from control by the legislature and the executive, and, no less important, that the Bar be also independent.

I hope to be able to contribute in a small way to the important work of the Commission, to justify the confidence they have placed in me.

After these preliminary remarks, I now propose to make a few personal observations on the theme of this Seminar, 'Human Rights and Development in the Rural Areas of S.E.A. Region'. There are gathered here distinguished jurists from many countries, including especially the other four ASEAN countries. I am afraid that I do not know enough to speak about other countries, so I shall speak only about my own country.



We in Malaysia have a written constitution, written during 1956-7; and as you might expect in a new constitution, it has a Bill of Rights, except that we call it 'Part II', dealing with 'Fundamental Liberties'. This Part guarantees the citizen, and in many cases the non-citizen also, certain political and legal rights, in some cases subject to exceptions. Some of these political and legal rights are:

1. the right of the citizen to live anywhere in the country, his right to return, his right not to be banished;
2. the right of a person not to be deprived of his life or personal liberty save in accordance with law;
3. his right to habeas corpus;
4. his right to live as a free man not in slavery;
5. protection against retrospective criminal laws and repeated trials;
6. equality before the law and the equal protection of the law;
7. freedom of speech, assembly and association;
8. freedom of religion, though Islam is the religion of the Federation;
9. the right not to be deprived of one's property save in accordance with law and the right to compensation where one's property has been compulsorily acquired or used; and
10. the right of the citizen not to be discriminated against in public education on the ground only of religion, race, descent, or place of birth.

All these rights, and they are human rights, are constitutionally protected rights and they have been written into the Constitution to emphasize their importance, for being in the Constitution they are more difficult to abridge than rights protected by ordinary law. These rights are in the main to secure legal justice. But we on the Commission know that equally important is the need to secure for man everywhere another kind of justice, namely political, economic and social justice — a need which constantly exercises our mind — so that man can live a full life with enough to support himself and his family in dignity and to provide opportunities for his children and generally be free from want and fear.

Man should have a say in who should govern him, and in every country human and natural resources must be used in such a way that they work for the benefit of the whole nation, not

merely for a privileged section thereof. We in Malaysia are fortunate in that by the grace of God, it has been possible to hold a general election every five years as enjoined by the Constitution, giving the electorate an opportunity to choose their own government. In some States, for example here in Penang, the electorate have shown their dissatisfaction with the Government by voting their opponents into office.

When I read about a debate being held on whether or not there should be a right to development, I must say I was astonished — because in Malaysia where government may change every five years, the party in power never doubts for a moment that its duty is development; its duty is to establish and improve schools, universities, roads, bridges, airports, harbours, public utilities, and so on, such that the people's life is made more healthy and more comfortable. The Constitution does not say that the citizen has a right to development, and yet because of the desire to win the citizen's vote and the fear of losing office at the end of five years, nobody in Government doubts our right to development, and that this right belongs to all citizens and not only to a privileged few. Long may this be so.

In Malaysia too, there has been a clear shift in emphasis to development concepts from 'economic growth' to 'equitable distribution of national income'. Before Independence, such development as there was occurred mainly in urban areas, and that was where were concentrated employment opportunities and most amenities, such as schools, hospitals, good roads, electricity, telephones, piped water, and all the other things that make life easier and more comfortable. Such modernization as there was was in urban areas, and the urban population had most of the money; while those in rural areas with inferior amenities were occupied in low-income pursuits on their small holdings or as fishermen. And this was true of all races.

Soon after Independence, the new Government applied their energy to developing the modern sector of the economy situated in urban areas — because that was the most obvious and easiest place to start — while at the same time, efforts were made to ameliorate the life of the rural people by providing them new lands, simple roads, rural health centres and piped water. The modern sector of the economy showed remarkable progress to the benefit of the urban population. On the other hand, while the rural population also benefited by having new lands on which to grow rubber, oil palm, rice, fruit and vegetables, easier access to market for their produce, better health facilities and clean drinking water, they still

lagged behind their fellowmen in town. The benefits of development did not trickle down much to them.

Unfortunately in this multi-racial country, the urban population who benefited were mostly non-indigenous and the rural population who lagged behind were mostly indigenous *bumiputras*.

It was not until after the 1969 general election that Government realized the extent of the dissatisfaction of the rural population; and thereafter there was much policy rethinking. That rethinking resulted in the launching in 1971 of our Second Malaysia Plan 1971-5, embodying the country's New Economic Policy, which is still the policy today. This policy has two objects:—

- (a) to reduce poverty among the masses of the country's population, both urban and rural, but more particularly the disadvantaged rural;
- (b) to restructure society by bringing the rural and agriculture-based indigenous population (*bumiputras*) into the mainstream of economic activities, especially commerce and industry, in urban areas.

The New Economic Policy plans to achieve its target in 20 years, i.e. by 1990. It plans to enable the indigenous people to own 30% of the corporate sector of the economy. It plans to reduce poverty among the *bumiputras* not by robbing Peter to give to Paul, but by enlarging the national cake.

How to enlarge the national cake? By expanding and modernizing agriculture, hitherto the principal source of our national income; by actively encouraging the manufacture rather than the export of our agricultural produce; by fostering the location of agro-based industries in rural areas to stem the population drift towards towns; generally, by the removal of obstacles and the creation of facilities to enable the private sector and free enterprise to add to the national wealth.

The ultimate object is to encourage the economy, such that in the end,

- (1) race will no longer be identified with occupation, as has long been the case; and
- (2) *bumiputras* will be raised to be on par economically with their fellow citizens.

I think that we have succeeded in building up our economy. The clearest evidence is the value of our currency which has doubled against sterling since Independence. Also we are the world's greatest

producer of natural rubber, and have surpassed West Africa in our production of palm oil and will soon in cocoa also; we are a great producer of tin; we export large quantities of tropical hardwood and pepper. We are almost self-sufficient in rice, our staple food.

Manufactures have also increased tremendously compared to a few years ago.

In the process of all this development, much new wealth has trickled down to the rural population, judging from the number and quality of housing in the kampungs as can be seen from the road. The rural population are better housed, better fed, enjoy better health, and by means of government scholarships more of their children have opportunities in education.

While much remains to be done, Malaysia, it may be said, certainly believes that the man in rural areas has not only those political and legal rights written in the constitution but also basic human rights to a satisfying life.

A feature of development in this country is that plans are not imposed from the top. Here ideas for development are encouraged to come from the bottom, at the village and district level. After scrutiny they are sent up to the state level and in the case of federal projects they are eventually sent up to Kuala Lumpur. There they are again scrutinized and assessed and a final decision is made in the light of financial resources and national priorities. Thus there is popular participation in the formulation of our development plans.

What is the role of judges, lawyers and law teachers in securing human rights in rural areas?

Judges of course must see to it that disputes are determined fairly and justly, and that the poor and weak are not victimized by the rich and powerful. They should see to it that the poor and weak do not lose the protection of the constitution and the law.

Lawyers too have an important part to play. The role of the private practitioner is rather limited because rural folks cannot be lucrative clients. It is lawyers in the public service who have a more important part to play: they advise Government on how defects and lacunas in the law may be remedied to give better protection to the peasant from, say, the landlord and moneylender.

Law faculties should include the teaching of economics and social anthropology to better equip law students who plan to enter the public service, — be it as lawyers or administrators. Both economics and social anthropology teach how conditions and the

law may be adjusted to bring about desired results to improve the community.

Quite frankly I think that it is the administrator who can play and does play the most important part in rural development and the protection of the human rights of rural folks, and that the lawyer is only his auxiliary. So if the administrator is also a lawyer he is doubly equipped to protect the villager's right to a decent life.

The administrator should secure law and order so that the villager may pursue his occupation in peace; and provide a clean, incorruptible and efficient public service, so that official tax collected from the villager is credited to revenue and utilized to provide public amenities, and the taxpayer does not have to pay a bribe for service to which he is entitled. The administrator should see to it that whatever subsidies are made available by the Government, such as seeds and fertilizers, reach the villager for whom they are intended. He should see to it that the villager gets a fair wage for his labour and a fair price for his produce, and does not fall prey to the middleman. Government at the centre should ensure that the income of the villager is not disproportionately low compared to that of his fellow citizen in urban areas, and if necessary, that the food he produces for the nation is subsidized. If his land is taken for a public purpose so that, for instance, a road or a school may be built on it, he should get fair compensation and in cash, or, better still, he should be given alternative land. The administrator should generally see to it that Government is not oppressive and really benefits the villager.

Ladies and gentlemen, before closing, once again I thank the ICJ and the Consumers' Association of Penang for giving me the honour of making this welcoming speech, and I wish all participants a fruitful and enjoyable seminar.

COMMITTEE I – AGRICULTURAL  
AND ECONOMIC POLICIES

PRELIMINARY QUESTIONS CONCERNING  
DEVELOPMENT IN THE RURAL AREAS

*Lim Teck Ghee*

Centre for Policy Research,  
Universiti Sains Malaysia

There are two questions to ask before we can discuss what is required to further or advance human rights and development in South East Asia.

The two questions relate to the nature of the development process, namely, what do we understand by development and why has development not proceeded as well or as fully as desired? These questions are important because without resolving them we will not know exactly what it is we are looking for or disputing; neither will we be guided in what we want to correct in the existing development processes.

First of all I believe that development is a process of individual and social betterment of people aimed at providing them with an improved quality of life in the fullest sense. In the context of poverty which is so pervasive in rural South East Asia, it should obviously concentrate on providing food, houses, clean water, education, lighting, clothing i.e. fulfilling the basic needs of the masses of people in the countryside and towns so that they will not starve, fall ill or suffer from deprivation. With the provision of these basic needs, the individual will be well on his way to leading a productive and fulfilling life. Without it, not only will the individual suffer physically but also his mental faculties will become undeveloped and his inherent capacities, unfulfilled.

A woman who receives inadequate food will fall sick from malnutrition or undernourishment. Perhaps worse, she will suffer from psychological despair, mental lethargy and other mental problems. The problem of physical deprivation and its attendant psychological impact is not only located at the level of the individual. A society that contains large numbers of people living below the poverty line will not be able to develop its capacities to the full; its women and children will be wasted by high mortality rates, its

resources will not be used in the optimum manner and its culture will be concentrated on the need to survive rather than evolve into a higher form. Where the society contains groups of rich, over-fed, over-housed people living in co-existence with masses of under-fed, under-housed and deprived people and perpetuates the contradictions, the attendant social and cultural impact becomes even worse as it has to evolve a culture that justifies the existence of penury amongst plenty and, suffering, hardship and degradation in a situation where they need not exist. Hypocrisy, inhumanity, lack of compassion, greed and alienation become embedded in the society and eventually end up as norms which become acceptable to many.

Saying that development should concentrate on meeting the basic needs should not imply that we should leave out the non-material aspects of development. For an individual to develop his capacities to the full requires both a full stomach and also certain minimal freedoms — cultural, social and political. Man is not only a biological animal but also a thinking and conscious one. Physical well-being cannot be separated from mental well-being as the two are inextricably linked.

This point is important to make because in certain quarters it has been argued that there is a need to separate the economic from the non-economic aspect of development. Such arguments are most frequently voiced by authoritarian regimes to justify their curtailment of the social, cultural or political rights of the people in a country. Since the major problems facing the country are held to be economic — absence of food, housing, clean water, etc — it is propagated that for these problems to be resolved, it is necessary to de-emphasize the social, cultural or political aspects of development. In the name of economic development people are told that their social, political and cultural rights are luxuries, stand in the way of economic development and have to be done away with.

Apart from the fact that it falsely compartmentalizes the process of development, the argument is dangerous because it permits a small group of people to decide on what kind of economic development takes place with the masses of people left with little or no role. Since few countries have the financial resources to resolve the problem of economic development, active participation of people must be drawn in if the struggle for a better life is not to fail. However participation cannot be obtained if the social, cultural or political rights of the people are not respected or advanced — in other words economic and social, cultural and political development must go together and must be based on the active participation of people to succeed.

Following from this, it is clear that human rights is not only compatible with development but also a necessary component. Those who argue that human rights should be suspended whilst the economy is being developed do so only for their own narrow interests and to prevent dissent and criticism of the path of development they have chosen. It is noticeable that such groups whilst talking about the temporary suspension of rights never mention a date when the suspension might be lifted.

I have argued that development is a multi-faceted and holistic process. Using the criteria described earlier, it is my contention that development has failed generally to make much impact in the Third World and specifically in rural South East Asia. The table on the next page which compares some indicators of health, education, nutrition and production shows the vast gap in the provision of basic needs between South East Asia and the industrialized nations. The figures for South East Asia include the urban component which is relatively advantaged so that the actual position in rural South East Asia is much worse than shown here.

The contention that development has failed might be disputed by some who will point to trend figures of GNP e.g. which show that the South East Asian economies have registered high growth rates in the past two decades. Such figures of economic growth, however, have to be carefully evaluated since more recent rigorous income distribution studies show that the benefits of growth have been very unevenly distributed and that, although certain specific indicators have shown progress, generally there has been little or no improvement either in living standards or productive capacity of the great majority of rural dwellers.<sup>1</sup> On the other hand, those who have been to the modernized/developed sections of South East Asia can see very clearly from the conspicuous wealth and over-consumption that such groups as professionals, plantation and mining owners, merchants and upper class bureaucrats — both foreign and national — have been the main beneficiaries of the economic growth.

- 1) One recent study has concluded that hundreds of millions of desperately poor people throughout the world have been hurt rather than helped by economic development. The finding, based on examining 48 social, political and economic indicators from 74 underdeveloped countries, shows that 'the position of the poorest 60% typically worsens, both absolutely and relatively' and that 'in an average country, going through the earliest phases of economic development, it takes at least a generation for the poorest 60% to recover the loss in absolute income associated with the typical spurt in growth'. Adelman and Morris, cited in Keith Griffin (1976) *Land Concentration and Rural Poverty*, London.



	Indonesia	Thailand	Philippines	Malaysia	Industrialized Countries (Average)
1. Adult Literacy Rate (%) 1975	62	84	87	60	99
2. Life Expectancy at Birth (Years) 1978	47	61	60	67	74
3. Energy consumption per capita (kg. of coal eq) 1978	278	327	339	716	7,060
4. GNP per capita (dollars) 1978	360	490	510	1,090	8,070
5. Infant Mortality Rate (aged 0-1) 1978		68	65	31	13
6. Child Death Rate (1-4 yrs) 1978	20	6	7	3	1
7. Population per Physician 1977	14,580	8,170	2,760	4,350	630
8. Percentage of Population with access to safe water 1975	12	22	39	62	100
9. Daily calorie supply per capita 1977	2,272	1,929	2,189	2,610	3,377
10. Number Enrolled in Secondary School as % of Age Group 1977	21	27	56	43	87

Source: The World Bank, *World Development Report, 1980*

Tables in Annex (Washington D.C., Aug. 1980) pp. 110-55

Why this is so is not difficult to answer. Most South East Asian (and Third World) governments have depended primarily on the support of a combination of upper class and vested interest groups. The members of these groups not only have concentrated power, resources and status in the past but they have also been able to direct or influence the development strategies for their own benefit.

In the rural areas these strategies have been marked by the following features:

- a) Monopolization of land, water and other natural resources by small groups and denial of access to the rural population at large.
- b) Domination of production and distribution systems by elite groups who have extracted high margins.
- c) Concentration on commercial agricultural development which implies greater integration into an international market over which small producers have little or no control.
- d) Introduction of technology-led innovations which have benefited the wealthier farmers more and hastened the displacement of the small farmers.

In my opinion (which is not different from that of many other scholars) a pre-requisite condition before development can take place in rural South East Asia is authentic agrarian reform which will counter the four tendencies listed above. Such a reform will have to be based on the control by rural people themselves over their own development programmes and their participation in the wider national political and economic struggle to protect their own interests. Anything less will only enable other groups to usurp the fruits of development and a similar skewed pattern of distribution of benefits as in the past might result.

It must be added here that although the above prescription envisages a role for the state, its success demands not a greater role for the government (which can manipulate the emergence of new forms of inequity) but a greatly reduced one. This the government can do by taking the following steps which were recently endorsed by an international conference on agrarian reform and rural development.<sup>2</sup>

1. Remove all barriers to the free association of rural people in institutions of their choice and ratify and enforce ILO Convention number 141.
2. Encourage the establishment of self-reliant local and national federations of peasant and worker associations with a minimum of government control over their activities.

2) See FAO document 'Draft Declaration of Principles and Programme of Action' World Conference on Agrarian Reform and Rural Development (WCARRD), 4 March 1979.

3. Encourage people's organizations to develop self-reliance at community level and assist them in such areas as meeting legal requirements, training of leaders and other initial needs, while exercising care that their independence is not compromised.
4. Decentralize institutions of government to enable people's participation in planning and formulation of development programmes relating to their region/areas.
5. Involve organizations of intended beneficiaries of land reforms in the redistribution of land and water rights.
6. Channel publicly supplied credit and material inputs, where feasible, through organizations of smallholders, beneficiaries of land and tenure reform and other peasant groups.

Under the existing political conditions in South East Asia and elsewhere in the Third World it must be admitted that there are few governments which are willing to share power in the manner described above with the rural masses. Such intransigence unfortunately will only make more violent the confrontation between the privileged in society and their supporters, and the masses over whose eyes the wool cannot be pulled all the while.

## AGRICULTURAL AND ECONOMIC POLICIES

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The Indonesian case is presented here mainly to arrive at a proposed framework or outline for group discussions on specific aspects of rural development and human rights involved.

Two main types of farming in Indonesia are wet paddy (with modernized irrigation and drainage, and multiple cropping) and upland shifting cultivation in forested areas or secondary growth. The first type is mainly found in Java, Madura and Bali (which have dense populations), while the second type is found on other islands. Dependent on manual labour both types have about the same farm size per worker and in pre-war days also about the same level of productivity: 1 kg milled rice per hour labour input.

The shifting cultivation type has since the 1920s adopted elements of 'semi-permanent tree crop gardens' with rubber, coffee, coconut, pepper — commercial crops for a world market. On this basis farmers' levels of living in the latter pattern have been higher than levels achieved by Java's farmers who are mainly food crop producers.

The big 'plantation' system was introduced some 100 years ago with the help of the colonial government. In Java it got control over hill and mountain slopes and in Sumatera, which has much more 'waste land' (proclaimed as 'State Domain'), over the plains, such as Deli, which is famous for its tobacco. Long leases (75 years) were granted in this system of big private enterprises. In Java, where modern cane sugar mills were the first forms of a modern manufacturing industry, peasant farmers were pushed into renting out their irrigated lands to the sugarcane plantations, and many villagers worked as seasonal workers in the plantations. This link was once called a symbiosis though most benefits went to the estate side, and less to peasant farmers, who were not allowed to become sugarcane farmers themselves but had to shift from owning paddy to renting out their land in rotation. In the realm of shifting cultivators, the big estates existed as enclaves. The latter were pushed to importing labourers supplied by Java's villages.

Since independence, features of a basically dualistic economy, especially plantations, have persisted, both after nationalization of Dutch enterprises in 1958 (part of confrontation on West-Irian) and a new National Agrarian Law in 1960. The latter law did away with dualism in agrarian law but it gave a special treatment to the big plantation system (long leases of 30 years) alongside peasant farming with *milik* — property rights on land by individuals.

We may then relate three aspects:

- a) patterns of control over resources (especially land), capital and technology and types of management units involved;
- b) patterns of labour use, employment (how people make a living on the land); and
- c) income distribution as a result of specific patterns of land and labour uses.

The present structure (according to 1973 data) consists of:

- 1) a top stratum of big plantations (state corporations) on 1.1 million hectares and in forest exploitation several state corporations with 1.7 million production forest, while since 1967 about 400 private, mostly foreign, companies have held forest logging rights over some 36 million hectares in the other islands;
- 2) a layer of medium sized plantations — private companies on another 1.1 million hectares;
- 3) the backbone of peasant farming — some 7.7 million units of 'family-farms' on 11.7 million hectares (average unit size is 1.2 hectares in Java and 1.8 hectares on the other islands.
- 4) a large bottom layer of marginal farmers (smaller than 0.5 hectares per unit) consisting of some 6.0 million households, mostly in Java — 5.2 million units on over 1.5 million hectares (average size, 0.25 hectares per unit). The majority in this stratum are in fact farm-labour households. If landless households engaged in farm-labour were added, this bottom layer in 1980 (Census) would consist of 7.2 million households.

This hierarchy of strata also describes its underlying power structure.

In the 1950s land-hungry peasants, by occupying plantation land (supported by major political parties in their hey-days), did succeed in having their own kind of 'land reform'. The official one came in the early sixties, based on the New Agrarian Law. Its overall impact was rather small: less than 10% of available land got

re-distributed and benefitted less than 10% of those in need. The alternative of land settlements in the 'outer islands' (outside Java/Bali) has until now shown only its limitations; this option still has its potentials, however.

In food production, especially rice from wet paddy, progress has been substantial, due to the development of modern varieties. For the first time production nearly doubled in the period 1968-81 from an earlier level of 11.6 million tons because of rising yield levels.

In the process of this 'green revolution', polarization among villagers has gone further. Earlier notions of 'shared poverty' peasant economies have been corrected. Sharing of work opportunities is a better name, but the outcome has been that farmers who are landowners and managers have got the largest shares, while the lot of farm labourers has not improved.

With still rising yields in wet paddy, productivity has reached a level of some 3 kg of rice per hour but in the same period farm wage levels have remained on a low level of 0.3 kg of rice per hour.

One leading pillar of this production and 'growth' approach is cheap farm credit provided by the State, with subsidies on modern farm inputs (fertilizer, etc). In the *Bimas*-rice production programme farmers were, as it were, pushed into accepting the State credit without being asked whether they needed such credit. (The problem of bad debts has been one of its consequences.)

Marginal farmers, who are lower in the pyramid, in most cases have less ready access to the cheap credit, so have landless operators or share-croppers, as landed property is the normal collateral in such deals. One suspects that they are already in debt to the better-off farmers, at exorbitantly high rates of interests, so that they cannot reach out to the new opportunities.

Shared poverty is a reality among poor farm labourers as they compete among themselves for any job. Share-cropping on a 50:50 basis has become a special case; *ngepak*-contracts where a farm-labourer agrees to cultivate wet paddy and gets one-sixth of the produce as his share have become widespread. Such an income in kind still has its attractions over cash income from casual labour. In the case of *ngepak* relations, the landowner remains very much the manager, taking care of farm inputs.

Communal harvesting as in an 'open house' has become rare, and smaller gangs of hired harvesters may be paid more and more in cash.

In the last few years, as discussion in public on the implementation of the 1960 Agrarian Law became more open, policy makers have repeatedly pointed to the need to implement the 'share-cropping law' (on a 50:50 basis) 'in the true spirit' intended by the Law. However, no response from local level leaders to such high level concerns has ensued.

This case shows that no channels as yet exist at the village level through which both parties (landowners and operators or farm labourers) may find solutions to their problems. One may conclude that no problem exists between the two parties involved, also that local bureaucrats do not feel the need to intervene. In practice there are no sanctions and share-cropping contracts have remained an 'oral affair' without any written document as stipulated by law.

Control by the village community over such agrarian affairs has become weak since the sixties. In communities with an earlier strong hand, their grip on their members not to sell land to outsiders (or not to sell at all) has weakened since *milik*-property rights were accepted as individual rights, including rights of disposal and inheritance.

The custom of inheritance of land by sons and daughters is seen as a main cause of land fragmentation and sell-out. But one may also point to other causes, such as deep indebtedness, that have been solved by selling land. In the latter cases one sees the consequences of unbalanced opportunities.

In the village structure, small farmers at the top level stratum, are the best versed in the money economy. Marginal 'others' on a lower level who are much less knowledgeable in money matters, will become dependent on the former. In such a process one may even surrender land.

In the process of developing institutions at the local level to serve the needs of farmers (farm input supply, marketing of produce, etc), state policies have stipulated that primary co-op units be established. They were started in areas with *Bimas*-rice programmes: earlier units of smaller size which served one village per unit, by order of the state, have merged into the larger unit of a subdistrict primary co-op, the so-called 'Village Unit Co-op' (KUD). This top-down development has been supported by putting a paid manager at the KUD-unit to work full time, with advice from a local committee.

In practice, 'passive membership' of farmers is still the rule in such an 'inter-village' co-op, as each farmer who at one time has received any service (in the process of a '*Bimas*' programme, etc) will be listed as a member, while the person involved may not consider himself a member yet.

Not only are such KUD-co-op units burdened with jobs in giving their services to their farmer members (in managing their farms) the State has even started to appoint the co-op units as centres of distribution of consumption goods (sugar, etc). Here, one comes up with a question: will such a move not go against the interests of the existing chain of small shopkeepers in the village?

One will have to take into account that at the same time farmers and other small entrepreneurs in the upper strata of the village social structure are being aided in new ventures beyond the local village economy, with new types of appropriate and cheap bank credit (such as 'mini'-credit).

The question arises: where will entrepreneurs from the top strata in villages put their investments? Some report that in many villages they are doing their business 'through the local KUD-co-op units', especially in paddy purchases for the State (for its national rice-stock).

One improved *Bimas*-type of programme is called the *Insus*-programme in which farmers in managing their individual farms are able to co-operate in small groups (farmers in adjacent plots in wet paddy blocks). One report puts its stress on this new element: that small groups of farmers are doing a better job so that rice-production in the last two years has gone up at an extraordinary rate i.e. nearly 9% in one year!

If this proves the true potential of the *Insus*-programme, it may also point to another potential that may be crucial for a bottom-up development in the next stages. If these small groups of farmers grow into larger units of self-management, this process may give 'flesh and blood' (life) to the present top-down structure of the KUD-co-op unit. That is, if such an alternative is wanted by national policy-makers!

In the case of the cane sugar industry (still largely a Javanese option) another programme is under way to organize farmers as cane growers, instead of landholders offering land for rent. In



areas where wet paddy farmers are new to this type of enterprise, it will take some time. But the crucial thing is whether farmers are getting trained in the process. From the start city entrepreneurs have come in and, by leasing land from farmers, have pushed their business as an alternative to the older ways in which the sugar-mill also acted as the big sugar-farmer (average of 1500 hectares). Here also a KUD-co-op unit may become a 'front' for out-of-village entrepreneurs who will do any part of the jobs needed except let the farmer-landowners do the farming while learning. For farmers and also for cane-farm labourers, such approaches would mean no development at all.

In the meantime, the sugar mill will need fewer personnel as it will start abolishing its 'cane growing function'. How many of them will find jobs in the new set-up will be known soon.

In the regional economies outside Java and Bali, modernization in smallholders' export crops has been long overdue: it was only started on a larger scale in the current Third Plan (1979-84) in rubber and coconut. In the First Plan (1969-73), to improve the product quality of rubber (Standard Indonesian Rubber) crumb-rubber industry was promoted. However at the farmers' level no incentives were offered to improve output.

The new programmes of modernization in this subsector call for assisted replanting projects, village units and 'nucleus estate-smallholders' schemes; in the latter an estate-unit is to act as 'developer' to smallholders who plant the same crop in surrounding villages. Product processing and marketing and agricultural extension will be the jobs of such a 'nucleus estate'-unit. The scheme also provides cheap bank credit while establishing local KUD-co-op units.

Probably some elements in the new schemes are borrowed from Federal Land Development Authority (FELDA) land settlement projects in Malaysia.

For specific provinces the role of big forest-logging companies has to be mentioned as they operate in areas which have been the domain of shifting cultivator-peasants turned export-crop producers. For the benefit of modern logging enterprises forest exploitation rights for some 25 years have been granted by the State while the claims of local communities on their *ulayah* (traditional territory), and their autonomy in allocating use rights to its members have been practically disregarded. Instead the State has started 'resettlement schemes' for shifting cultivators who operate in these 'logging territories'. Even 'transmigration' (land settlement) schemes involving

settlers from Java and Bali are now diverted to other parts outside those territories that are to produce timber and foreign exchange for the country.

The rehabilitation of the big estates, especially those owned by the State, was started earlier with the aid of foreign loans. The result now is that half or more of such units have become good foreign exchange earners. However, the lot of the field labourers is one concern easily overlooked in the process. While advocating labour unions for workers in private enterprises, in government estates the workers have the status of 'government employees' without any union but with only a special 'corps'. Within such a hierarchy improvement of wage levels needs the approval of the Minister in the capital! These plantations also farm out projects to local contractors. Workers recruited by these contractors are in the worst position as they are not protected by labour laws.

In the current Third Plan, 'eight paths of equity' have been indicated as guidelines for plan implementation.

The first two paths, opportunities for developing enterprises and for employment, are central as these will produce the third 'path' which is increasing income of households. This in turn will open up two other paths to meet the basic needs of food, clothing, housing, and to acquire the services of formal (and other forms of) education and health. The sixth path is that of people's participation, especially of young people and women.

Trends in the Second Plan have shown that a good part of the additional labour force have joined certain sectors in jobs with lower income. Only a small portion have had the luck to be absorbed in better paying jobs in the formal sector.

The majority of rural households hold multiple jobs, partly dictated by the season and by local markets. Non-farming jobs in many cases have lower income or wage levels than those found in farming. But in rural Java more farm labour (already at high levels of labour input per hectare, especially in wet paddy) cannot be absorbed in the farming sector. A 'one-day' work load in wet paddy in many places in Java is now an average of three to five hours work for one person — with more people one works shorter hours.

Of the first two 'equity paths', enterprises are the more powerful so that in practice 'employment opportunities' have remained as the outcome of the first, a dependant variable in a process in which entrepreneurs/producers have taken the decisive steps. In such

an 'enterprises economy' how to arrive at 'equal opportunities' is a major concern. However one starts with a situation in which people do not have such 'equal positions', especially in control of resources. In promoting economic growth, the larger units have the greater potential to contribute: big plantations have an advantage over smaller ones, likewise 'small farmers' (over 0.5 hectares) over marginal farmers (less than 0.5 hectares). Co-operative units have the potential of 'scale enlargement' if they unite small farmers, or if their groups link up with the larger unit of a 'nucleus estate' in a functional relation. As centralized planning invariably works out a top-down implementation, the problem is how to achieve a bottom-up development in which farmers/others will join as active actors and decision-makers in matters close to their common interests.

Small farmers in the top rural strata already are getting the attention of policy makers, both in farming and in non-farming opportunities. The same opportunities, geared to their special needs, are still left out in the 'darkness' of the informal sector for the bottom 40% of marginal farmers, farm labourers and those engaged in home and cottage industry, especially in rural Java.

Three-quarters of workers in manufacturing are in cottage industry (about three million, mostly in Java), in which work-opportunities are on the average only 110 days in a year with income levels of 1.7 kg rice equivalent per work day. The small industry sector (with less than ten workers per unit, with paid labour) may easily push out most of the cottage industry.

In an outline for discussing 'agricultural and economic policies, relevant to human rights and rural development' one may then incorporate these aspects:

- a) distribution of ownership (or enterprise rights) of the means of production, especially control of land;
- b) the adoption of new technology as part of modernization;
- c) institutional arrangements — the search for appropriate institutions; and
- d) government policies — approaches and implementation, how to work from a central programme to a local-unit-supported field programme, to make it work as a 'people's programme'.

When a national government takes up a normative approach towards social-economic development, and accepts it as the responsibility of the State, it is relevant to discuss 'which norms, whose norms' when touching on each specific aspect.

HUMAN RIGHTS AND RURAL DEVELOPMENT:  
A TOOL OF ANALYSIS (SURPLUS VALUE  
ANALYSIS AND MONITORING OR  
WHY THE RURAL POOR GET POORER)

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In the current analysis and monitoring of rural development (in so far as these exist), the concept of Surplus Value is either unknown, or known and misunderstood, or known and understood, but scorned, feared, or neglected. The unfortunate concept has been carefully segregated in quarantine by conventional development wisdom, because of the contagious disease it is believed to carry: Marxism. Our quarantine authorities, notably the World Bank and the fellow travelling academic establishment have done this for our sakes. They fear the patient's release will trigger an epidemic ranging from grave embarrassment to revolution. Yet ironically the source of this concept is not Marx but the great grandfathers themselves of main stream economics — Quesnay, Ricardo, Adam Smith. Marx brought it to its logical and practical conclusion.

This paper has smuggled the concept briefly (and at some risk) out of quarantine to present its credentials and to seek your aid in its liberation.

Surplus value is that value of a peasant's or worker's labour power and labour time involved in production, which is in excess of the value of the labour power and time needed to produce his own (and his family's) subsistence.

The extraction of this surplus value by other rural groups for disposal in consumption or investment *mainly outside the peasant community* has been identified as a defining characteristic of all peasant communities. The nature and degree of this surplus extraction are determined by the peasants' own situation in terms of

- (a) his control over his means of production and,
- (b) his production relationships with others.

In the favourable climate now provided by WCARRD's Programme of Action, an attempt is made in this paper to show why the application of this Concept to the analysis and monitoring of community development should be explored by NGOs both in their own work as development activists, and in the pressures they bring to bear on Government.

## Mechanisms of Surplus Value Extraction

At least nine major mechanisms of surplus extraction can be discerned in Asian peasant communities. (Most Asian NGOs would be quick to recognize them from their own field experience.) As a result of this continuous process of surplus extraction, what takes place in the rural sector is not rural development but, (to modify a well known phrase and concept from Andre Gunder Frank) the 'development of rural under-development'.

These nine mechanisms of surplus extraction are:

1. **Bonded labour** — the labour power and labour time of peasants sold by them to big landlords in payment of debts contracted earlier. The difference between the subsistence (necessary) labour value of the peasant's work and his surplus labour value is most clearly seen here. The cost of the former (food, shelter, clothing, etc.), is met directly by the landlord himself. The value of the latter, (i.e. the peasants' surplus labour power and time), is appropriated by the landlord *without payment* — this form (still found in many parts of India) is a survival of the extreme mode of surplus value extraction typical of the slave/slave owner production relationship.
2. **Rent in Labour Services (Corvee)** — This is unpaid family labour services which peasants are forced to provide on the estates of landlords as part at least of the rent that peasants have to pay for the right of usufruct on their land holdings. This form, though not common, is still found in certain semi feudal or servile relations of production.
3. **Rent in Kind (sharecropping)** — The peasant producer is forced (often by only verbal contract) to give the landowner a fixed share in kind of the product, in exchange for access to his landholding. Such Rent in Kind as a direct and primary charge on the gross product of the peasant is a characteristic of surviving semi feudal production relations.
4. **Rent in Cash** — with the progressive absorption of the rural community into the money and commercial market economy,

land rentals are increasingly demanded in cash, and represent an extraction of part of the peasants' product in money terms. As against other forms of rent, product and price risks tend in this form to be shifted from the landowner to the peasant.

5. **Extraction via the employer/wage labourer relationship** — This is nearest to the form of extraction suffered by the typical urban proletariat in capitalist relations of production. The peasant as wage labourer selling his labour, generates during his labour time a product, the value of which is greater than that represented by his wage, the surplus being the value of labour appropriated (unpaid for) by the estate employer *as his property*. This is the form of 'exploitation' characteristic of the tea, sugar and cash crop plantations.
6. **Usury** — Indebtedness for consumption needs or working capital is a chronic feature of a peasant's life. The high and often exorbitant rates of interest charged by landlords, richer peasants, middlemen, shopkeepers etc., are another means of surplus transfer from the poor.
7. **Terms of trade** — Some consider this the dominant form of surplus extraction from independent small peasant producers. Unfavourable prices for farm commodities sold, relative to commodities purchased (farm inputs and requisites, consumption needs, etc.), make the peasant a helpless victim of the vagaries of 'free' market forces.
8. **Taxes** — battery of taxes direct and indirect has a varying impact on the peasant economy, but one result is common to all of them: the extortion of a few more ounces of flesh from the peasant. Here it is often the Government who plays Shylock.
9. **The Banking System** — This is perhaps the most subtle and least obvious yet most efficient of the modes of surplus value extraction and transfer from the peasant economy to the larger economy. Through increased promotion of credit and the banking habit in rural economies, peasant savings and deposits are deftly mobilized and transferred to urban areas where almost invariably the opportunities for earning higher profits are much better than in the rural sector where these savings and deposits are generated. On the other hand, urban based investment through banks in the rural sector is considered worthwhile only if more profits can be generated from the rural sector than from the urban sector.

## The Mechanisms in Operation

A few practical examples follow in the operation of some of these mechanisms. The use of surplus value analysis (SVA) can help to quantify this:

1. Region 3, Area H of the massive Mahaveli Colonization Scheme in Sri Lanka, has a population of 3,700 peasant families. Through a complex of weak cooperatives, active village retail shops, paddy purchases by outside middlemen, 'the amount of money escaping the settlers and the region can be estimated ... The value accruing outside the region (in one year) is thus Rs. 160,000 (low estimate), Rs. 896,000 (medium estimate) and Rs. 1,348,000 (high estimate). The aggregate value extracted from the farmers individually is even higher since we then have also to consider the amount sold to the village boutiques ... in small quantities ... and barter and advance payments ... This would mean that the settlers individually lose another sum of between Rs. 360,000 (low estimate) and Rs. 1,698,000 (high estimate) ...' (from page 58 in study paper No. 19 of the Sri Lanka People's Bank).
2. According to United Nations Conference on Trade and Development (UNCTAD) studies of banana economies in the Philippines, in 1975 the local banana companies earned profits of around £10 million and the foreign multinationals £21 million. Total wages of 25,000 plantation workers were £2.5 million. (They were lucky if they got the minimum wage). The share of local producers in the final retail price is about 11.5% (Martha Elena Furtado in the Guardian of 8 October 1979).
3. In South Shore, a poor black community in Chicago, the South Shore National Bank found that because of its anti community policies it was not generating enough local deposits for investment *outside*. The bank was refused permission to relocate. It was then purchased by a local consortium of foundations, churches and groups. The new owners launched an aggressive course of investment from local savings and deposits, *within the community* it serves. In 1974 the city of Chicago required *all banks by law to disclose loan and deposit information by geographical area*. In Asian countries this information (let alone such local banking experiments) is still not available or even looked for, although it is a critical index of surplus value extraction from poor communities.

4. In the Bangladesh cooperative movement (especially in Comilla) in the FAO's own Small Farmer programme, and in other rural development projects, much stress is placed on three indices of local development (a) the growth of individual savings (b) the growth of group or cooperative savings (c) the percentage of loan repayments.

These are only superficial indicators of improvement. The more basic issues are what percentage do these savings represent of the total peasant income generated and how and where is the balance expended.

Closer scrutiny will show that as before the greater part of the new income generated flows out of the peasant community and the individual peasants' hands, through a variety of channels. In real terms the peasant community at best continues to mark time in the same place. More often there is deeper and wider pauperization.

### **The significance of such examples**

No doubt any one can quote similar examples from his experience. The point is that in the absence of an understanding of the principle behind them as regular features of continuing poverty generation in the rural areas, the recounting of such examples becomes no more than the fruitless bandying about of isolated anecdotes, 'exchanges of experience' that serve little other purpose than to inflate the egos of seminar participants.

Little help toward such understanding is likely to come from most UN/World Bank and conventional academic and government authorities. These are still obsessed by 'free' market considerations, cost benefit analysis, shadow pricing, rates of return, technological inputs, and increases in production and income. Also in all of these studies, the unit and point of reference are the limited Project or Programme, *not* the small rural community or area of rural development as a whole. Remember that to the development establishment the surplus value concept is taboo, a source of embarrassment, a subject fit only for quarantine or the mad house.

Another word of caution: Surplus value is not the same as 'added value' 'profit' or 'marketed surplus'. Many believe these are different words for practically the same thing, and ask what's new in this other form of words? This is not the place to elaborate on the distinction. It would suffice to say that all these others are derivatives of the more basic phenomenon of Surplus Value.



The main significance of the Surplus Value concept is its potential for use as a major instrument in measuring both the growth of the individual peasant's well being as well as that of whole peasant communities. In respect of both objectives SVA can be developed:

1. as a tool of analysis of a given condition,
2. as a yardstick for monitoring and measurement of community change,
3. as a major index or set of indices for planning, and project and programme design at micro levels,
4. as criteria for quantifying such otherwise threadbare ideas as exploitation, oppression, injustice, self reliance, self management, control of resources, etc. Most of these ideas and phrases are now criticized (with good reason), as emotive, imprecise and irresponsible.

At best these phrases are tolerated as valid subjective expressions of opinions and/or reflections of qualitative phenomena which though unquestionably real are not amenable to quantitative measurement.

The SVA concept has at least the promise of being developed as a means of quantifying what has been hitherto merely qualitative. At the present time, it is not part of the intellectual equipment of either international agencies, governments, NGO activists, academics (with some rare exceptions) or even, surprisingly of the majority of Marxist action researchers. Even less is it known (or made known) by field workers in the area where it can have the most crucial impact viz. — among the people themselves.

## Conclusion

The main purpose of this paper is to suggest the following:

1. NGOs consider the adoption of Surplus Value analysis as a specific approach to their work with rural communities.
2. With this objective they enlist the help of NGO Action Research Institutes to refine and explore the application of SVA in their work.
3. Train their field workers in the use of this analysis and in its dissemination within rural communities as part of their education and conscientization programmes. The latter is vital. In the last resort, it is the people themselves who must be able to see and confront the dynamics of change in these same terms of surplus value extraction. This is an essential and practical

basis for determining their own modes of relevant community action to reverse the present processes.

4. Use SVA to test the relevance of existing and future projects (both their own and Government's).
5. Use SVA to evolve (in collaboration with the people) effective village level statistics to monitor and evaluate the progress of rural communities in the quantitative terms that SVA makes possible. For example as a beginning the nine mechanisms and derivatives from them could be used as such criteria.
6. Begin the search to evolve an adequate SVA index and criteria that could be used as benchmarks and measures of each rural community's development.
7. Ascertain and monitor the extent to which government policies, subsidies, allocations and projects help to restore the extracted surplus value to the communities that generate it.
8. Monitor the activities of local banks, especially with regard to their loan and deposit transactions to ensure that local resources are retained and ploughed back to promote local development purposes and are not channelled outside for external investment or consumption.

There are further and wider advantages to NGOs in the adoption of these techniques of analysis and the quantitative data they could generate. NGO credibility with people and their influence with governments will be enhanced. And at least a substantial beginning will be made in the vexed question of assessing their accountability to governments, to each other and ultimately to the people.

## SUMMARY OF DISCUSSION IN COMMITTEE I

The Committee considered three working papers, one entitled 'Agricultural and Economic Policies' which is based on the experience of Indonesia and two other more general papers. During the ensuing discussions, the paper writers were asked to elaborate further on points mentioned in their papers and attempts were made to elicit comparisons with the agricultural and economic policies present in other countries of South East Asia.

It was generally agreed that the agricultural and economic policies of countries of South East Asia should be examined from the point of view of the effects these policies have on the rural people in these countries. Several features prevailing in these countries were discussed. For example there is general agreement that there appears to be a trend whereby farmers lose control over their traditional plots whether by outright sale or by way of mortgages. In situations where land cannot be sold due to some legal restriction to this effect, control over the land is transferred by means similar to giving a power of attorney over the land. It was also agreed that multi-national corporations, whether engaged in the production of palm oil, bananas, rubber or other cash crops, are also present in most of the countries under discussion. Frequently workers in these plantations or estates are not organized.

Having considered the general patterns in some countries in South East Asia, the Committee came to the general conclusion that the rural poor in South East Asia are not able to develop themselves to the full and are susceptible to violations of human rights which may occur. The Committee was of the opinion that present development policies have led to the aggravation of the situation of the poor. In order to change this situation, the Committee concluded that the rural poor must be enabled to participate in the decision making process. It is by such participation that these people can influence the decisions on policies which have far-reaching implications for them. In order to have effective participation, the freedom of association — a right embodied in Article 20 of the Universal Declaration of Human Rights — must at all times be respected. Farmers, agricultural workers, etc, must be allowed to organize to promote their rights.

The Committee examined the frequent argument of governments that development always involves some costs and benefits i.e. it involves some sacrifice for the general good e.g. the building

of an airport on rich agricultural land. The Committee was agreed that government policies should not use only cost-benefit formulae. These are inadequate, for other factors apart from economic ones should be considered. Further, the Committee was agreed that the term 'development' has to be clearly defined. According to the Committee, development should be a process of individual and social betterment of people arrived at providing them with an improved quality of life in the fullest sense. Therefore, it seeks to promote human dignity and aims at the constant improvement of the well-being of the entire population in the process of development and a fair distribution of the benefits. Governments should formulate their policies in the light of the above considerations and look into possible alternatives to achieve the same ends.

Another argument presented by governments that was examined by the Committee is that governments are fighting a war against poverty and in order to do so, volunteers are required; if no volunteers are available, then they must be recruited. The Committee was of the opinion that governments should realize that human values must be given due weight. Further it is not entirely clear whether projects that are professed to benefit the poor actually benefit the poor. It was accordingly recommended that lawyer groups, economists and social scientists should work independently, not with governments, in order to find out if projects really benefit the poor.

The Committee then considered some rights which are internationally recognized to try to find a relationship between the observance of these rights and development goals. It was recognized by Article 28 of the Universal Declaration of Human Rights that everyone has the right to participate freely in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits. Further it was recognized that there exist certain rights like basic rights (right to air, water, land), survival or security rights (food, shelter, health, lifeways), work rights (satisfying work, minimum income) and social rights (control over productive assets, environment, etc).

The Committee then went on to examine in greater detail the present economic and agricultural policies in the countries of South East Asia. Amongst the areas of concern were the adoption of capital-intensive technology in food production, export orientated plantations, high technology commercialized fishing, commercial exploitation of forest resources, invasion of rural areas by urban based banks, current tourism policies and the control of market mechanisms by monopolies. Each of these was examined in turn

in order to assess the effects of these policies on the lives of the people. The conclusions derived from this examination are set out in the report of the Committee.

The final conclusion was that more often than not, these policies which have been conceived to help the rural poor had resulted in greater poverty and wide displacements of local communities. The Committee accordingly recommended that the rural population whom these agricultural and economic policies are stated to benefit should participate in the process by which these policies are formulated.

## COMMITTEE II – LAND REFORM

### SOME PROBLEMS OF LAND REFORM IN INDONESIA

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When Indonesia became an independent country and State it inherited from the colonial administration a conglomerate of agrarian laws which were no longer appropriate to the status of the new Indonesian nation, and which were so complex that it was rather difficult for the newborn government to keep in force those agrarian rules and for them to be followed by the Indonesian citizens of the new State.

The colonial state had made a general rule that all lands on the Indonesian island (Dutch Indies) in principle belong to the State or rather to the government and that only the government had the power to dispose of land for agriculture needs. In addition the old laws made a distinction between rights of indigenous people and rights of Indonesian residents (of foreign descent or from foreign countries).

As a general rule the indigenous population of a particular part of the country could occupy land for residence, farming, and grazing in the neighbourhood of their settlements, usually called Kampong or Desa, provided that their Adat Laws made it legal and possible for them. And land that they have used and tilled for generations could not be sold or given to non-indigenous people unless they got approval from the government. It was assumed that the indigenous people had a kind of property right on such lands.

This rule was made to prevent indigenous people losing their land to the rich foreigners such as the Chinese, Arabs, Indians and Europeans who were looking for fortunes in this country, and were trying to become landlords in a rather easy way. But in practice it was easy for those who had money to obtain the necessary approval. The indigenous landowner could make a statement that he had abandoned his land and that the government could dispose of it for the benefit of the interested non-indigenous resident of Indonesia.

Still another rule was that the government could dispose of land in the form of *erfpacht* (lease) for 75 years to business and agricultural enterprises, as long it concerned land under direct control of the government, i.e. land that was not occupied and used by the *Inbeenschen* (indigenous people). In addition to the lands belonging to the colonial government, there were still lands under the authority of the so-called *zelfbestuurdes*, i.e. selfgoverned enclaves in the former Dutch-East Indies that were still ruled by autochthonous rulers, though restricted in their authority by general or special agreements with the Dutch government. Foreigners who were residents of the Dutch Indies and foreign corporations could get from these *zelfbestuurdes* rights over lands in the form of concessions for big plantations and grants for smaller pieces of land for residence or small industrial needs.

When in 1950 Indonesia became definitely an independent State the difference between the indigenous population and other residents of Indonesia of course ceased to exist and residents of Indonesia became either Indonesian citizens or foreigners. And it was accepted as a principle that only Indonesian citizens could acquire property rights over Indonesian lands.

In the first year nobody worried about land ownership, land rights and land use. The former indigenous people, who really had struggled and fought for the country to be freed from colonialism and thought of themselves as the real Indonesian nationals started to occupy land without regard to whether that land had been formerly given as *erfpacht* (lease), *opstal* (another form of lease), concession or grant to foreigners, who after 1950 either became Indonesian citizens, or stayed on as foreigners or as stateless persons. (It would take too long to explain why all these different types of residency existed in Indonesia). Another phenomenon was that some indigenous people were leaving their original settlements and were clearing new land in other parts of the country where formerly they would not have been allowed to settle. Then disputes and fighting arose over the lands left by foreign owners.

The 1945 Constitution of the new Republic pledged:—

1. that instead of Indonesia being a police State, as it had been during the colonial days, it would be a State ruled by the law;
2. that the new State would be based on the 'Pancasila' or 5 Pillars;
3. that therefore the first goal of the new State should be to build a prosperous and just society, where every citizen

would have a proper share of the national wealth for his life and existence as a civilised human being;

4. that the first means to reach that goal was to follow an agrarian policy, which would make it possible to raise the standard of living of the traditional Indonesian farmers (that means the indigenous farmers), who have been all the time the economic backbone of the former Dutch Indies without profiting themselves from the fruits of their hard labour on the land they were holding.

Aware of the shortcomings of the old laws and of the need to have a better administration of land use and organization of farm land and land for industrial and commercial purposes, and better distribution of land for housing and living, the government was gradually driven to make new laws on agrarian matters more in line with the principles of the Pancasila and more adapted to the situation of the new independent State.

Please, readers, do not look at the word Pancasila as only a formula or a slogan. Pancasila means the Five Pillars on which the Indonesian State and nation rest. Those Pillars are a summary of the belief of the Indonesian independence fighter that the new nation ought to be governed according to:

1. Religious morals prescribed by God to mankind.
2. Principles of humanity which stand for justice and goodness among human beings.
3. The Principle that Indonesia is a unitarian state and one nation.
4. The Principle that it will be governed by the people through a democratic process which is based on the wise maxims of deliberation and representation.
5. The Principle that all the citizens of Indonesia ought to have a reasonable standard of living according to modern and civilised standards, materially as well spiritually.

There is no room in this article to talk about the whole Pancasila philosophy, but when we talk about land reform, we ought to take a closer look at the 5th Pillar.

In colonial times, the East Indian archipelago was well-known as a rich country but it was also obvious that most of the indigenous population, who were the majority of the people, were very poor. There was (and still is) a saying that many *Kampong* people (the name for *orang Indonesia asli* or autochthonous people) were too poor to live but too shy to die (*bidup sukar, mati segan*), and it was



the oath of Sukarno and the youth of *Indonesia asli* in 1928 that, if Indonesia ever became independent, the first task of the government would be to look after the welfare of the whole people, that means of all the individuals who were born in Indonesia from ancestors who have been living for centuries in Indonesia and who in their daily life showed a real love for their *tanah tumpah darah* or *tanah air*, their birthplace and their country.

One of the beliefs of the modern time is that a good policy of land use and just distribution of arable land among small holding farmers will not only stimulate economic life, but will also foster a just and prosperous society with an equal distribution of the national wealth among all the citizens, none excepted. In order to implement the 5th pillar of the Pancasila, the government of the Republic of Indonesia formed a committee in the fifties, to draft an Agrarian Law, which would not only get rid of all the complexities and multiplicities of the old agrarian law system but would also lay down concrete rules about land use, land ownership and land rights based on the 5th Pillar of the Pancasila, valid for the rulers as well as for the common people.

On 24 September 1960 the new Agrarian Basic Law was enacted. We call this law a basic law (*Peraturan Dasar Pokok2 Agraria*) because it only defines the principles and fundamental rules to be used as guidelines for the further elaboration and execution of a practical agrarian policy.

One of the general complaints of the Indonesian people today is that we have laws with marvelous ideas and principles, but which are difficult to apply in everyday life because there is a lack of precise formulations about what ought and what ought not to be done, and who is responsible for a specific duty or task.

Let us study this new Law by looking at some of the important articles. The Preamble states that the old agrarian laws and rules are not suitable for the development of the Indonesian country, which is still an agrarian economy, because that legal system is based on the capitalist and individualist economic system and does not give security to the people, and that therefore a new national agrarian legal system ought to be constructed which would realize the ideas laid down in the 5 Pillars. This means that the State has the duty and task to organize and manage land rights and ownership and organize land use in such a way that all land belonging to the Indonesian nation will be used for the welfare and health of the whole people, individually as well as in mutual assistance; and that therefore it is necessary to lay down in a law the foundations for a

new agrarian policy and to organize new basic rules which will form the basic of a new agrarian legal system.

Let us turn now to what those foundations and principles are:

Art. 1 of the Basic Agrarian Law of 24 December 1960 states that:

- (1) there is one Indonesian jurisdiction extending over the whole territory (*tanah air*) of the Indonesian population, which as a unity makes up the Indonesian nation.
- (2) All land, water and air under Indonesian jurisdiction forms part of the national wealth.

Art. 2 says that the government has the right to manage and organize land use and land rights and that the government has to use these powers for the benefit, welfare and freedom of the people of the Indonesian State and society which is free, sovereign, just and prosperous, and is based on the principle of the Rule of Law.

Section 4 of Art. 2 says that the administration of the above mentioned right can be delegated by the government to the *Adat* community (customary) provided that it is not against the general interest of the whole country or is not against the law.

The meaning of this article is very much disputed. On the one hand, this basic law says that the Indonesian Agrarian Law is *adat* law, but on the other hand according to this section 4, the *adat* community can only execute rights over the land as long as it is not against government regulations. And it is generally accepted that government regulations are not rules of *adat* law. Besides, government can give away land in many ways which are not known in *adat* law, e.g. *Hak Guna Bangunan* and *Hak Guna Usaha*.

Art. 5 says that the new agrarian law is based on '*Hukum Adat*' (*Adat* law) as long as it is not against the interest of the nation and the State, not against other government regulations and is in harmony with religious beliefs.

Art. 6 says that all rights over land have a social function which means that those rights ought not to be abused or misused for private interest by the owner of that right or title.

But the most important article for land reform is Art. 7 which says that a person is not to own or to possess more land than is allowed by government regulations, as that is considered to be against the social welfare of the nation and '*Indonesian socialism*', which is social justice for every citizen.

Art. 9 says that *only Indonesian* citizens can have a full right over land, water or air (called *Hak Milik*). Corporations enacted as Indonesian corporations can acquire lesser rights, like *Hak Pakai*, *Hak Guna Usaha* or *Hak Guna Bangunan*.

Art. 13 says in paragraph 4, that the poor and weak farmers should be assisted by the government to get a better living in the new Republic, and therefore should be enabled to have enough arable land at his disposal.

Art. 14 says that the government has to make an overall plan of land use, so that there will be land for:

- (1) the state when required for public purposes;
- (2) religious organizations for religious ends;
- (3) social organizations for social goals;
- (4) production of food by farmers, traditional as well as modern;
- (5) commercial plantations, industry and mining.

I have mentioned and stressed those articles that in my opinion are expressions of the will of the government to build a better Indonesian society, for every citizen, and particularly for those indigenous peoples who really had fought for and made sacrifices for the independence of the land, water and air of Indonesia from the colonial regime.

But as one writer had once said: the way to hell is paved with good intentions. Good intentions of the Indonesian government have not yet brought the poor and weak traditional farmers in Indonesia nearer to the righteous and prosperous society that was promised to them by Bung Karno (Sukarno) and his fellow fighters for a free and just Indonesia.

I have not made a particular study of land ownership, land use and land registration, but in my law practice I have seen many examples of abuse of power and land rights, misuses of arable land, uncontrolled deforestation, illegal land squatting, unlawful appropriations of land and other violations of agrarian rules.

It is evident that many officials of the Agrarian Department have allotted to themselves pieces of land much bigger than is allowed by the principle laid down in Art. 7, because they interpret the word 'State' as implying that they have the legal power to use land for themselves as being in the public interest. It is reported that many arable lands, formerly owned by poor and weak farmers, are now owned by rich citizens who are mostly government officials

or of Chinese descent. The former owners are sometimes working as very poorly paid labourers on those lands.

The second Chapter of the mentioned law deals with the different rights an individual or corporation can have over land.

Art. 16 enumerates those rights as follows:

- (1) *Hak Milik*
- (2) *Hak Guna Usaha*
- (3) *Hak Guna Bangunan*
- (4) *Hak Pakai*
- (5) *Hak Sewa*
- (6) *Hak Membuka Tanah*
- (7) *Hak Memungut Hasil Hutan*
- (8) Other rights to be determined by law, and rights mentioned in Art. 50 like *Hak Gadai*, *Hak Usaha Bagi Hasil*, *Hak Menumpang* and *Hak Sewa Tanah Pertanian*.

I purposely use the Indonesian legal terms, because I do not think that there are legal equivalents in English. Freely translated, you could describe them as:

- (1) Property rights
- (2) Right to till the soil
- (3) Right to erect buildings
- (4) Right to use (e.g. for building a house)
- (5) Right to rent
- (6) Right to clear a piece of as yet uncultivated land
- (7) Right to collect forest produce
- (8) Other temporary rights.

I need not linger over the institution of conversion, that is the changing of old rights into the new above mentioned rights. There have been problems and litigations in particular with regard to lands formerly owned by foreigners or stateless persons. These lands are usually located in the cities. They concern more the city population and do not have much impact on the economic situation of the farmers.

What is more important is the use and ownership of rural land that ought to belong to 'real' Indonesian farmers who are tilling the soil for the benefit of the whole country.

To implement Art. 7 of the basic Agrarian Law another law was made which says that:

- (a) farmland ought to be owned by real farmers;
- (b) a farmer's family can possess not more than 5 hectares of wet padi-land and 12 hectares of dry arable land which should be worked by that family itself;
- (c) in densely populated areas, a farmer can only have at his disposal two hectares of wet fields and five hectares of dry land.

This rule was made with the intention that 'real' farmers could own land and be responsible for the good use and high productivity of their lands. People who are not farmers are not supposed to own farmland. It was the intention to remedy gradually the situation where many poor farmers are without land. The government wanted Indonesia to have farmers who will not only grow crops for their own needs but who can also provide the nation with enough rice, protein and vegetables.

These were the good intentions of the new nation. But it is a fact that in 1981 there are still millions and millions of poor farmers in Indonesia with only a very small piece of land at their disposal. It is well known, for example, that on the island of Java millions of farmers have at their disposal one-fifth hectare or less of arable land each, which does not produce enough for their own needs. But there are now also owners of land of more than 100 hectares each. I prefer not to discuss why it is like that. I have thought about reasons why after 20 years of land reform, plans are still far from reality, but my thoughts could be interpreted as malicious criticism of government policy, so it is better that I keep those thoughts to myself. But perhaps some cases from my law practice can give a picture of how the rules of the Agrarian Law are being misinterpreted, if not abused.

For example Art. 2 states that all land in Indonesia at the highest level is under the control of the State. This article is often interpreted as meaning that officials of the government are entitled to dispose of land for their private use as well as for their family and friends, because they are 'the State'.

Twenty years ago, all lands around the harbour of Belawan were swamps. Then people came, who had been farmers, but because of overpopulation had had to leave their original *Kampungs* and started to make that land arable. Ten years later those people could be proud because that land could provide rice, vegetables and fruits

for the whole surroundings. But another ten years later, when the harbour authority needed that land for expanding the harbour facilities, some officials of the Agrarian Department with their families suddenly produced certificates of ownership and so they received a rather large sum of money as compensation because they were so-called landowners who had to abandon their land.

According to the law that land was actually 'free Stateland' and the government did not have to pay a large sum for compensation to people who suddenly (in 1976) showed a certificate of ownership.

The law says that the government should only pay some money as compensation for the crops of (illegal) squatters of free Statelands. But the squatters have no proof of their rights and officials who have never tilled that land can easily make certificates for themselves because they are in the office that issues certificates. In this way they are suddenly able to make a lot of money.

From many of my colleagues I heard similar stories about other areas, in Sumatra as well as on the other islands of Indonesia.

Another feature is that many rich people (how they made their fortune is mostly a riddle) are buying land very cheaply as a speculation from the original Indonesian farmers, who need money badly for their basic needs. These new owners do not themselves cultivate the land, but sometimes allow the former owners to work as cheap labourers on it. The new owners are often rich enough to leave the land fallow until the day they can make a good profit by selling it in small plots when land prices are soaring. This attitude goes against Art. 10 of the new basic Agrarian Law, for this article says that owners of arable land should themselves till the land to prevent exploitation of other people and to prevent resurgence of a class of landlords.

Another case concerns licences given to enterprises to exploit forests for logging. The regulations say that those who are granted a licence have to see to it that

- a) there will be no uncontrolled deforesting;
- b) the rights of the autochthonous population to collect produce in the forest will not be violated.

I need not give an extensive picture of the abuse of these licences. It is known that the people who live from these forests are slowly being pushed away from their livelihood, and the whole world knows how devastating the deforesting of Java, Kalimantan and Sumatra is becoming.

The government is now trying to stop it by distributing the deforested land in Kalimantan and Sumatra among transmigrants from Java and by reforesting the spoiled land in Java.

I am aware that I am not giving a scientific analysis of the land reform problem in Indonesia. I know that a scientific description should follow a certain method, including:

1. collecting data
2. analysing the data
3. organizing the data round some theory, which can be proved right or wrong
4. drawing conclusions which can form the basis for a new theory
5. and if possible testing the new theory to the reality.

For a real scientific discussion you need actual data. I cannot get objective statistical information about how land is used, how much land is used, what the attitudes and actions are of the officials who are in charge of the execution of the basic Agrarian Law and its regulations. Therefore I feel unable to make a precise and exact analysis.

I do not know whether I can provide a proper theory to explain the agrarian policy and practice before and shortly after our independence, and I do not think that I will be able to provide a new theory according to the spirit of the 5 Pillars of Pancasila, based on my present knowledge of the facts.

I only wish and hope that after the elections, two years from now, the newly formed government will continue the present trend to improve the officials' mentality by being stricter in controlling their execution of the laws generally and the agrarian laws in particular, in accordance with the 36 elements of the 5 Pillars of Pancasila. May Indonesia reach its goals and ends: a prosperous and just society for every citizen rather than for one group only.

# LAND REFORM IN MALAYSIA

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## The concept of land reform

Land reform is a universal phenomenon having multi-dimensional, complex and inter-related problems, involving political, economic, social, cultural, religious and legal aspects. Because of this difficulty, no one is in agreement about the definition of Land Reform. It is not as abstract as 'beauty' or 'justice', yet many writers give different interpretations to the same word. Many others speak differently, giving different shades of meaning to different terminologies. Some define it narrowly as a means to provide land for the landless<sup>1</sup>; others broadly, when they speak of 'land reform' as opposed to 'agrarian reform'. Some speak of land tenure systems as land reform, while others speak of 'public programmes aimed at restructuring society'.

H.C. Tai defines 'land reform' as 'public programmes that seek to restructure equitably and rationally a defective land-tenure system by compulsory, drastic, and rapid means'. The objectives of reform are to attain just relationships among the agricultural population and to improve the utilization of land. The means by which these objectives are attained are government sponsored tenurial changes.<sup>2</sup>

The United Nations, however, prefers a broader meaning and defines 'land reform' as 'an integrated programme of measures designed to eliminate obstacles to economic and social development arising out of defects in the agrarian structure'. Such a programme involves changes of land tenure as well as improvement of agricultural service institutions.<sup>3</sup>

This paper prefers the broader definition on the argument that the narrower definition is too restrictive, i.e. even if we provide land to the landless, social injustice still occurs, because land *per se* is useless and meaningless, without the accompanying infrastructure, such as irrigation, technology, fertilizers, credit facilities, marketing, education, etc. With that objective in mind, a new concept of an old terminology may emerge.



agrarian reform	=	land reform + social reform
land reform	=	agrarian reform — social reform
social reform	=	agrarian reform — land reform

The economists say that land serves as a factor of production, but politicians say that land is a status symbol and serves as a source of social and political influence. Historically, in Malaysia this was true until World War II. After independence, the reverse concept has been gaining popularity in the sense that by using political power, one can own land, or alienate land to someone through political backing. At the same time, virgin lands have been alienated to the landless, or to farmers having uneconomic holdings, on an organized basis through FELDA and State Land Schemes. That being so, we need to examine closely the social and agrarian reforms rather than land reform.

### **The twin pillars of social reform: the Malaysian experience**

When we speak of social reform in Malaysia, we mean the 'New Economic Policy', which is not new anymore. We may now change it to the National Economic Policy. The twin objectives of the NEP are the eradication of poverty irrespective of race and restructuring of society to eliminate the identification of race with economic functions.

For various reasons, Malaysia does not wish to embark upon 'land reform' in a narrower sense, primarily because it is not a socialist state; secondly 'land reform' entails nationalization of estates to be fragmented into smaller plots; thirdly, giving away land to the landless is not a panacea to remedy social injustice, fourthly, in the name of political stability, Malaysia is not ready to 'stir the hornet's nest' for many politicians are land-owning elites and land-lord aristocrats; fifthly, Malaysia's economy largely depends upon rubber and oil palm, and two-thirds of the land belong to estates of 500 acres or more.

For these reasons, therefore, Malaysia has embarked upon a new concept entirely based upon a 'new cake' rather than sharing the 'small old cake'. Functional and Sectorial Authorities were set up such as the Federal Land Development Authority (FELDA), the Federal Land Consolidation and Rehabilitation Authority (FELCRA), State Land Agencies, the Agricultural Bank, Federal Agricultural Marketing Authority (FAMA), the National Livestock Authority (Majuternak), the National Fisheries Authority (Majuikan), the

National Rice and Padi Authority (LPN), the Malaysian Agricultural Research and Development Institute (MARDI), and the Rubber Industries Smallholders Development Authority (RISDA), besides strengthening and consolidating the functions of traditional agencies such as the Land Office, Department of Agriculture, Drainage and Irrigation.

Later, new Regional Authorities such as Muda Agricultural Development Authority (MADA) and Kemubu Agricultural Development Authority (KADA), the Johor Tenggara Development Authority (KEJORA), the Pahang Tenggara Development Authority (DARA) etc. were established. Cooperative agencies, such as Farmers Cooperatives, (PPN), the National Tobacco Board, the National Pepper Board, etc. were also established with specific objectives of securing social justice for the farmers.

### *Measures of land reform*

Broadly speaking, there are five types or measures of land reform, namely through land title and terms of holding, through land distribution, scale of operation, pattern of cultivation, or with supplementary measures necessary for the success of the reform.

Malaysia adopts all the five measures with varying success. The socialist method of reform through land redistribution cannot be practised in Malaysia because of the constitutional limitations.

Under the Fourth Malaysia Plan, Malaysia has embarked upon a new concept of development namely Integrated Agricultural Development (IAD) whereby settlement schemes for padi cultivation has been implemented. This involves resettlement of 109,000 families, coupled with improved drainage facilities to 210,000 hectares for small holders, mixed cropping and diversified farm activities. Replanting schemes under the Dynamic Production Policy which involves 141,000 hectares of land for replanting and land rehabilitation and 56,000 hectares for oil palm, cocoa and other crops, will enhance the scale of operation and production.

Article 13 of the Federal Constitution guarantees property rights.

- 13 (1) No person shall be deprived of property save in accordance with law.
- (2) No law shall provide for the compulsory acquisition or use of property without adequate compensation.

The legal and constitutional restrictions hamper the scale of operation and the capacity of production. Some landlords may own

as much as 300 plots covering 200 hectares, but the lands are scattered all over the place. Some plots are cultivated while some others are left idle. Although there are provisions in the National Land Code authorizing the Collector of Land Revenue to forfeit idle lands, the enforcement is not rigid — or not being implemented at all — for fear of political interference.

Padi lands are governed by the Padi Cultivation (Security of Tenure) Act. The Act prohibits the landlord from charging rental above and beyond a stipulated sum, and he is not allowed to change tenants at will.

Land redistribution on a different model was experimented with by FELCRA on a modest scale in Kelantan. Known as in-situ land development, an area of about 1,000 hectares owned by 300 families was selected and developed using modern technology. Families which were scattered all over the place were relocated in a new village to facilitate the provision of modern amenities and infrastructure. Similarly, plots which were scattered were relocated. In-situ development does not entail deprivation of property. It is an exercise to relocate and redevelop an old farm by exchanging the plots among the farmers so as to be transformed into a modern farm. The success of this scheme is yet to be seen. If successful, other areas will be developed using similar methods.

### *Alienation of new lands*

During the decade of 1971-80, 866,058 hectares of land were developed, giving benefits to 86,000 families<sup>4</sup>. These people were either unemployed or landless. By this means they were provided with more productive employment and population pressure was relieved in the agricultural areas. Under the First and Second Malaysia Plans, 324,000 hectares were developed,<sup>5</sup> making a total of 1.2 million hectares (or 3.1 million acres). The aim of the Plans was not merely to increase the number of farms in the country, but, more importantly, to provide farm holdings of an economic size based on modern techniques of agricultural production and management.<sup>6</sup>

### *Land ownership*

The pattern of land ownership in Malaysia is far from satisfactory. Although 7.3 million hectares have been alienated so far, 27.8% are under estates, 42.8% under small-holdings, and 29.4% under FELDA schemes. The contribution from estates to the national

economy is very substantial and dominating; hence the estates will remain as part and parcel of our way of life.

The division between estates and small-holdings perpetuates and widens the gap between the haves and the have-nots. Those labourers working in the estates can never dream of becoming land owners unless their cooperative societies or their finance companies take the initiative of 'buying over' the estates.

The small-holders outside the FELDA and State Land Schemes are also facing many legal, economic and social problems, notably the Muslim law of inheritance, the uneconomic size of holdings, tenurial problems, high rate of illiteracy leading to various difficulties in introducing modern farming technology and a host of other related problems.

These problems will remain for a long time until overcome by the new concept of land alienation under the FELDA type scheme, and FELCRA's in-situ development programmes. It is envisaged that by 1990, the percentage of FELDA and FELCRA type land scheme will be increased to about 70-75%, while the acreage for the estates will remain as before, between 25% and 30%.

### *Irrigation*

Apart from new land settlement, substantial investment was made in drainage and irrigation as part of the overall agricultural programme to raise productivity and income of farmers. During 1961-70 a total of 124,000 hectares of padi land in Peninsular Malaysia were improved through irrigation facilities,<sup>7</sup> and another 128,000 hectares were improved under the Second and Third Malaysia Plans.<sup>8</sup>

### *Agricultural Credit*

It is heartening to note that the Agricultural Bank, Malaysia, has embarked upon new programmes and activities to enable the farmers to borrow a limited sum of money bearing no interest at all, or 4.0% interest in certain cases. Equity participation between the Bank and the farmer is also encouraged in certain viable projects.

### *The Future*

Although Malaysia does not embark upon 'land reform' in the narrow sense of the word, it does provide benefit to more people than those in the countries which heretofore have been involved in

socialist type land reform. It practises more of an agrarian reform rather than land reform. But more needs to be done to enable the have-nots to reap the benefits of such 'social reform'.

1. In-situ programmes should be extended to all small-holdings throughout the country. With replanting schemes carried out extensively, it is hoped that by 1990 small uneconomic holdings will be things of the past.
2. To accomodate In-situ programmes, the statutes on the Muslim law of inheritance will have to be amended. During the olden days, land could be distributed simply, because there were large size plots of a few hundred acres. But now, because of fragmentation, there are no more agricultural lands of that size. It is submitted that distribution of shares or equity on land rather than land *per se* should be adopted.
3. The Padi Cultivators Act, which favours the landlords rather than the farmers need to be amended. Enforcement of the Act should be done on a serious full-time basis rather than being left to part-time officers with other duties to perform.
4. Farmers' Cooperative Societies should be organized along the lines of well established cooperative societies of Denmark, Sweden, Japan or even Taiwan. Once properly organized, the function of the middlemen will be reduced or abolished. As it stands today, the profit goes to the middlemen rather than the farmers.
5. A Land Tenure Centre should be established at one of the Universities, to research upon various aspects of the problems relating to land tenure, land ownership and land utilization.
6. The Land Office needs to be reorganized. As it is now, the Collector of Land Revenue, as the title implies, is involved with the collection of land revenue. It is hoped that he will be more involved with land development, and agrarian reform rather than land administration. His title should be changed to that of Land Administrator or Land Development Officer.

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- 8) FMP, para 723.

## SUMMARY OF DISCUSSION IN COMMITTEE II

Land reform measures carried out by government have not been sincere; this is because many landowners are members of the ruling elite. Often land reform schemes are cosmetic, to appease the more vocal elements in society, very often the benevolent intellectual elite.

The decision for land reform comes from top down. The poor people are not participants in the process, merely recipients.

For effective land reform the poor must be involved in the decision making processes and there must be sustained pressures from below. The poor landless peasants and workers must organize to force effective land reform.

Corruption has contributed to the ineffectiveness of reform programmes in some countries. The slow working of government bureaucracy, which is inherent in all large organizations, sheer greed due to materialistic values and lack of organizational and management skills are some factors which give rise to corruption.

Sub-division of land due to inheritance has been uneconomic and counter productive. How can this be overcome? Cooperative ownership or communal holdings were thought to be possible answers.

Agrarian Reform Tribunals should include lay people among their members. Very often tribunals are made up of professionals, who may have a sub-conscious socio-cultural bias.

Article 17(1)(2) of the Universal Declaration of Human Rights ('No one shall be arbitrarily deprived of his property') needs to be reexamined in the context of the following issues:

- When does property (equals wealth equals power) become excessive and contribute to a relative imbalance, control and exploitation of one group over the other?
- There are poverty groups which historically have been deprived of their property.

## COMMITTEE III — ROLE AND STATUS OF WOMEN

### PROBLEMS AND POTENTIAL OF RURAL WOMEN IN DEVELOPMENT\*

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#### Introduction

One of the major consequences of the Industrial Revolution was the disintegration of the traditional family economy. In pre-industrial society, production was mainly family based or community based, both in agriculture, and in the trades.

Ivan Illich described the North American household in 1810 as the productive unit as 'Processing and preserving of food, candle-making, soap-making, spinning, weaving, shoe-making, quilting, rug-making, the keeping of small animals and gardens, all took place on domestic premises. Although money income might be obtained by the household through the sale of produce and additional money be earned through occasional wages to its members, the United States household was overwhelmingly self-sufficient. Buying and selling, even when money did change hands, was often conducted on a barter basis. Women were as active in the creation of domestic self-sufficiency as were men. They brought home about the same salaries. They still were, economically, men's equals. In addition, they usually held the purse-strings. And further, they were actively engaged in feeding, clothing and equipping the nation during the turn of the century'.<sup>1</sup>

Speaking of cotton weavers in eighteen century England, E.P. Thompson says: 'Weaving had offered an employment to the whole family, even when spinning was withdrawn from the home. The young children winding bobbins, older children watching for faults, picking over the cloth, or helping to throw the shuttle in the broadloom; adolescents working a second or third loom; the wife taking

\* This paper was prepared for the Seminar on Appropriate Technology, Culture and Lifestyle in Development, held on 3 — 7 November 1981 in Penang, organized by CAP and the Institute Masyarakat. Copyright remains with these two organizations and the author.



a turn at weaving in and among her domestic employments. The family was together . . . .'<sup>2</sup>

However with the invention of the power loom in 1785, this form of cottage industry was replaced by the factory system. As more and more men left their homes to earn a wage working in the factories, women became displaced from their former family and agricultural production. They were confined to the home and care of the family, and became utterly dependent on the wages of their husbands for the support of the home and family. This economic division of labour between the sexes was unprecedented in human history. According to Illich, 'It was the economic division of labour into a productive and non-productive kind, pioneered and first enforced through the domestic enclosure of women.'<sup>3</sup> Man now became the producer whilst women entered the private-domestic sphere and her function became reproductive.<sup>4</sup> Women's role increasingly became confined to the domestic spheres namely bearing children, looking after the home, the children and her husband. The total separation of domestic and wage production has also led to the former becoming non-productive work. This concept of Western women is very crucial to our understanding of the transformation of traditional subsistence economies first, with the colonial encounter and the so-called Development Decades that followed, because this concept of women as primarily a housewife and mother was imposed on many Third World societies with far reaching consequences on the role and status of women in these societies.

### Traditional Society

In traditional subsistence economies, the division of labour within the family was a very basic division, based on differences between the sexes. Men and women were food producers but their activities in production were differentiated. Besides labour, land comprised the most important means of production. In many of these societies, women had important control of land use. They often decided on how the land was to be used and they also determined the distribution and use of crops grown on the land.<sup>5</sup> According to Ester Boserup, where swidden cultivation exists, women who farm the land also have rights to it under cultivation.<sup>6</sup> Generally, in such an economy it is the women who perform the most work and acquire higher status than those in cultivation where the plough is used. This is supported by Robert and Pauline Whyte who noted that 'in tribal societies in South East Asia, women are esteemed members of their hunting and collecting or swidden communities

with an equal say in family decisions with their husbands, and often with a considerable role in community affairs, especially in those groups where men customarily absent themselves for weeks or even months, formerly on headhunting, more recently on expeditions to collect jungle produce for sale. In both such groups, of course, women's contribution to subsistence is essential'.<sup>7</sup> Where matrilineal kinship systems exist, the role of women in production is of equal importance with men; Women have rights to land and their status in the family is also high.<sup>8</sup> I also found similar characteristics among the Kenyah in Sarawak. In Kenyah swidden cultivation, it was the women who decided which plot of land they would cultivate for the planting season. It was they who decided which type of rice will be grown. It was they again who had rights to the crop during the harvest and it was they who ultimately had rights of control over these lands.<sup>9</sup> In another study among the matrilineal Minangkabau in Negri Sembilan, Michael Swift noted that much land was handed down from mother to daughter prior to the British administration.<sup>10</sup>

Women in traditional societies were not only food producers, they were the midwives, who delivered the newborn, the healers who cured the sick and the ill and they were equipped with various skills like weaving, spinning, tanning of leather and building of shelter, thus enabling the community to advance from mere crude existence and survival. They were also full-fledged participants in community life with their various skills and services.

## The Colonial Encounter

Western colonial administration in the process of subjugating, governing and controlling the colonised people relied heavily on the discipline of anthropology to meet its needs. In fact anthropology arose and flourished in the colonial milieu. According to Talal Asad, anthropology was 'devoted to a description and analysis — carried out by Europeans, for a European audience — of non European societies dominated by European power'.<sup>11</sup> In the heyday of colonialism which was the nineteenth century, anthropology was imbued with the notion that Anglo Saxon culture and technological development epitomised the ideal and peak of civilisation and human development.<sup>12</sup> More important these anthropologists brought along with them the male bias in their discipline. Anthropology concerned itself mainly with the study of 'man and society'. Although some studies had been done, these failed to challenge the male bias in the

discipline and in fact isolated women as a special case.<sup>13</sup> By focusing exclusively on women and children (an approach which arises from Western stereotypes about gender-roles in child rearing) this work functions in a way seen also in the 'development' field.<sup>14</sup> This male bias which continued in the form of anthropologists as administrators, consultants and planners, was maintained after the post war era when development anthropology emerged in the 1950s right through the 60s and 70s – the Development Decades – when the development theme focused on modernization and the transfer of Western technology. Barbara Rogers says, 'As long as the questions posed in Western writings about the Third World are in terms of "men", the women will remain excluded from all the answers. This is a critical element in the process of discrimination in Third World development, since it enables the planners to see problems as entirely those of men; the solutions must therefore also be geared to the men. Without any individual intention or even thought about women, the overall effect is to exclude them absolutely from development planning.'<sup>15</sup> This discrimination against women was the direct result of colonial intervention when a Western model of the roles and responsibilities of men as different from that of women was superimposed on traditional societies. Beginning with the introduction of a market economy, cash crop cultivation was directed at men even though both the wife and the family worked on it. This was true even with employment in the plantations, and domestic work in colonial establishments and homes. In the fields of education, colonial policies further reinforced local gender segregation. In schools, girls took needlework and boys had scouting. In fact it was the boys who were singled out for formal education even in areas where Koranic schools had taught girls as well as boys.<sup>16</sup> Where industries were set up, the colonial experience has shown that everywhere in Latin America and the Caribbean and later in Africa, it was the local women who went in search of these jobs, often outnumbering the men.<sup>17</sup> Here again they were discriminated against through a combination of institutional factors working in collaboration to keep them out. These were mainly the male dominated trade unions, and policies of both government and industry. Apart from these factors, 'protective legislation' was deliberately introduced to keep women from work with sophisticated machinery, night shifts and in what was apparently known as 'dangerous' work. As Barbara Rogers aptly puts it: 'In other words, Western gender stereotypes of women's "frailty" were used to drive them out of many of the best-paid and least strenuous jobs in industry and mining, while hard manual labour continued in many cases to

be allocated to "low-class" women.'<sup>18</sup> In the tin mining industry in colonial Malaya, the mechanization of the industry also excluded women. Large numbers of them became *dulang* washers panning for tin in the hot tropical sun, with their feet constantly immersed in water. It was back-breaking work and on top of this they had to apply and pay for a yearly licence to the government before they could work. Women are indirectly penalised for their economic initiative. But there were double standards applied to legislation: 'where the "protective legislation" might cause inconvenience due to the absence of men wanting the job in question — as in the case of nursing or night cleaning — it is not applied.'<sup>19</sup>

But it was the discrimination against women in the subsistence economy that had far reaching implications which worked against them especially when the burdens of this subsistence economy increasingly fell solely on the shoulders of women. Firstly, with the introduction of western concepts of the ownership of land (The Torren's Land System), women's usufructary rights to the cultivation and control of land suffered. Customary rights to land were not recognized and although both men and women lost out it was the women by and large who got the short end of the stick.

Secondly, the introduction of cash crop production introduced Western male concepts of ownership. For example, family assets and property were vested in the male as he now was recognized as the 'head of household'. More important the head of household meant that he was the only one who was entitled to government agricultural programmes and subsidies. Thus credit and assistance were monopolised by men in the household. Thirdly, cash crop production not only took away more land from subsistence production, women in these households still had to help out with cash crop cultivation. This increased their work load and together with the factors described above denied many women the opportunities of earning cash income as payment from land, labour and marketing invested in cash crop cultivation goes mainly to men.<sup>20</sup>

Let us take the experience of the Kenyah people in Baram, Sarawak. In the late 50s and 60s, the state initiated a number of subsidy schemes for cash cropping mainly rubber. All these subsidies were given to males.\* In the case of female household heads, it was the men (either sons or sons-in-laws) who were given the subsidy. Much of the best rice lands were given over to rubber

\* I had many women coming up to me to help them draft letters to the Agriculture Department to apply for subsidies.

cultivation. As a result many women forfeited rights to these lands which were given to their husbands and even brothers-in-law to cultivate rubber.\* And when a cooperative was set up to market this rubber, only men became members. With the cultivation of rubber women also had to help out in the weeding and tapping processes. And in recent years because of the fall in rubber prices and increasing land scarcity, many young men and married men have left the villages to work in the timber camps and in the towns leaving the women to fend for themselves at home. The younger generation have been captured by the school system so that increasingly women have had to take over many jobs in traditional agriculture which were carried out by men. During my stay, I had had the occasion to follow many women to fire the rice fields as well as to see them dibble during sowing time. Both these activities were traditionally activities carried out by men. The increasing labour shortage in the village has meant that women were loaded with the double burden of family chores, agricultural work and cash crop cultivation. Their position was made much worse because the money from rubber production went to the men. With neglect and stagnation in the traditional subsistence economy women were hard put to buy rice for their families' needs. In many instances women had to beg for rice while their men spent the money on drink.

In another example, in Negri Sembilan, Michael Swift found that the colonial system had incorporated Minangkabau matrilineal ownership of land into the British Land Code, but only with regards to land that was under clan ownership which almost entirely referred to rice lands. Hence these lands were exempted from land titles. When cash cultivation was introduced, rights to these lands on which rubber and fruit trees were grown, did not fall under the matrilineal custom and women were largely excluded. He further added that women were still able to keep their customary lands only because the matrilineal marriage pattern and other features of the still vigorous family system, together with the fact that rice-land and house sites are not particularly sought by the men who expect to use their wives' land, keep this kind of land in women's hands; in the event of their acquiring significant value there would be no legal sanctions available to the women for enforcing their rights.<sup>21</sup> With colonialism, not only was women's control and access to resources for subsistence gradually taken away from them as a result of Western and male concepts of ownership and control of land,

\* In Kenyah society although land was 'owned' by the family in the usufructary system, rights to cultivation of swidden land was passed from mother to daughter.

more crucial, it introduced a new sexual division of labour based on the market economy. Women were now *confined* to the domestic sector i.e. the non-monetary non-paid food producing subsistence sector, which was both neglected and discriminated against.

### Women's subsistence work

Although this non-paid domestic sector is not included in most studies on the labour force, work by women in this sector comprises one of the most arduous and back breaking. According to a recent ILO mission in Zambia, it was shown that 'in the rural areas, women are overworked' . . . they work very long hours, are pressed by many duties and obligations, are responsible for much of the work in agricultural production as well as for virtually all the food preparation, housework and the care of children.<sup>22</sup> In the Kenyah case women on the average were working 15 to 16 hours a day, either in the field and rubber gardens, gathering fruits and vegetables, looking for fuel (which sometimes took two to three hours) fetching water, cooking, bathing the children and feeding them, feeding pigs and preparing swill for these animals. The other major task was food preparation. This comprised husking, drying the padi grains, milling them or pounding them, winnowing and storing the rice. Apart from these, women were engaged in weaving mats, making sunshades, and making rice wine.

In a survey conducted by CAP on eight rural households with an average family size of eight, it was found that the women in these households spent an average of 12.8 hours doing housework. This ranged from preparing family meals, washing clothes, preparing food for pigs and chickens and feeding them, collecting firewood, collecting water, bathing children and feeding them, house gardening, sweeping the house and sending children to school.

In another CAP study among estate women, mothers said they could not breastfeed as they had to work from 5.30 a.m. to 4 p.m. in the late afternoon. 'During this period, a woman tapper has to tap 600-700 rubber trees. When she comes home, she has to cook, wash and feed the other members of the family. This leaves her hardly any time and strength left to want to breastfeed.'<sup>23</sup> This has been made worse with the introduction of higher yielding variety trees as women are made to tap even more trees.

Even where new technologies were introduced in agriculture, it had the tendency of working against women because it actually worked to increase the labour of women. For example, when the new Japanese method of rice production was introduced in many

Asian countries, it was found that more labour had to be devoted to planting, transplanting and weeding, activities in which women played a major role.<sup>24</sup> When High Yielding Varieties (HYV) were introduced in India, research found that the 'green revolution' had actually exacerbated the imbalance in demand for female and male labour especially in weeding — a major activity for women. In terms of casual labour HYVs increased the need for women's labour from 53 days per acre to 63. HYVs of rice required more work at various stages after the harvest, which also added significantly to the women's workload.<sup>25</sup> Even where mechanization was introduced, in land preparation, for example in Africa, weeding became a major problem for the women.<sup>26</sup> Conversely, mechanization had also reduced men's work in agriculture, for example like ploughing.

More important, mechanization has led to the control of women's labour by men especially in areas of agricultural activity which were traditionally carried out by them. For example, a hand-operated husking machine introduced in Sarawak, was found to be too heavy for the women to operate. Sago machines in Sarawak were purchased and operated by men, as they had access to cash or credit.<sup>27</sup> In many Kenyah villages the diesel operated husking machines were owned by rich men in the village who charged a fee for the operation. According to Barbara Rogers, 'There is a very high demand for food processing machinery from women, but without control of the equipment they are able to relieve the pressure of work only by continuing reliance on men's machines, which involves spending whatever cash they can accumulate for this purpose.'<sup>28</sup> She adds that 'The situation helps to reinforce the stereotype that women cannot manage machines, and that they can cope only with the most low-productivity and low-value operation'.<sup>29</sup>

In extreme cases, mechanization has totally displaced women's work in these activities thus depriving them of a source of income. In his study of mechanization operations in harvesting in the Muda area Rodolphe De Koninck found that the most crucial consequence of mechanization in harvesting was the immediate displacement of women work-teams by these machines in what was traditionally an activity accomplished by women. Ironically, the need for transportation of the large numbers of padi bags dropped by the harvesters offered employment to the men.<sup>30</sup>

Thus, mechanization in the subsistence sector has in some cases increased women's workload while in other cases it has deprived women of work, upsetting traditional systems of labour reciprocity, and marginalizing women even further.

The discrimination against women has been further increased by development planning. According to Barbara Rogers, firstly, the exclusion of women in the development agencies further increases male biases in these agencies; secondly the exclusion of women from data collection tends to exclude women's status and importance in the subsistence sector; and thirdly, the compartmentalization of women's issues in development programmes as special projects further isolated and domesticated women.

Apart from the discrimination practised against women in such an international organization as the United Nations, Barbara Rogers says that the dearth of women at the field level in the UN agencies has itself worked against the integration of women in grassroots development. She cites a United Nations Development Programme (UNDP) report which mentioned a problem common to all the UN family, that is the extreme rarity of women from the Third World holding supervisory or managerial jobs.<sup>31</sup> It is 'this absence of women from the countries most directly concerned in the development process that is perhaps the key to understanding the failure of development planning organizations to recognize the central role of rural women in the Third World as a whole'.<sup>32</sup> Even if they are to be found as planners, project managers or 'experts', they would be given low priority projects or activities considered suitable for women. In fact the important work and decision making is still handled exclusively by men.<sup>33</sup> She says that this would affect the understanding of projects and more important the women they affect. 'The men's perception of the people they are supposedly helping are therefore of central importance in moulding the patterns of intervention as they affect women.'<sup>34</sup> In fact she has shown from her experience with male planners in the field how women have been neglected in the so-called development process. Here are some examples from her.\*

1. An FAO country representative:

'I've just been filling in a questionnaire from headquarters about women. But you know there's hardly anything to say, because we don't have the sort of projects that would involve them. We have nothing against them, in fact we'd like to have more for them, but you see all our projects here are concerned with cattle, and it just so happens that women have very few cattle. Of course, we get criticized because cattle are owned by the richer people.'

\* These were based on conversations she had with the male planners in the course of her visits to UNDP and field offices and projects in Africa during August – October 1977.



'It is perhaps more than just a coincidence that all the money is going into cattle and almost nothing for crops, when cattle are men's responsibility and crops are women's?'

'I never really saw it like that. But I suppose there is a connection.'

2. Senior officials of a World Bank project:

'Meet Barbara Rogers, she's visiting this project and wants to know what we're doing for women. I warn you though, she's a feminist.' Embarrassed silence.

'Well, actually I don't think there's anything of much interest to you here. Perhaps UNICEF can show you something. We're a huge programme, millions of dollars, a consortium of agencies, got a job to do, and we haven't got any time for special projects.'

3. Onchocerciasis Control Programme (WHO and others):

'Why do all your statistics on the incidence of river blindness only refer to men? Don't women get it? Or aren't you concerned about whether they do or not?'

She repeated this question several times and she had different answers:

'There isn't any difference. Women and men get the disease at exactly the same rate, as you and I know.'

'In our village visits we find it's really a men's disease. Sure, we'll find three or four blind women in each place, but it's usually trachoma, not oncho. We might treat them, but only to get the villages' cooperation for our oncho programme.'

'There's no common pattern. My sociological data shows that it depends entirely on the seasonal work patterns, who works close to the river for the longest periods. In some villages more women have oncho than men. There are so many factors, for example, I find that if there's a small well in a village, and the women don't have to go to the river for water, they're less exposed to the fly.'

Subsequently she asked several officials if there were any plans to provide wells for badly affected villages. To her, the answer was an adamant 'No'. In her words: 'This was a serious eradication project; they were spraying the blackfly, and that was that.'

Finally she managed to get this reply from another official.

'The documents only mention men having the disease? I don't

believe it. Let me look it up . . . Well, how amazing! You're right! D'you know, I've worked on this for years, read that document dozens of times, and never noticed that it's only about the men. And now I come to think of it, our film only shows pictures of men. But surely, the women get it too. I wonder why it was done like that. . . . .<sup>35</sup>

The examples only show the extent of insensitivity, and ignorance of these male experts to the participation of women in development. How different a story it would have been if only women had been considered.

### **Discrimination of women in statistical data**

A British economist once remarked that if all gentlemen were to marry their (paid) housekeepers, the indicators would show a decrease in the participation of women in the labour force and a reduction in the national income. Because as housewives they would no longer be listed as wage earners and would therefore not figure in national statistics.<sup>36</sup> They become the 'invisible women'. They are not considered as people who are doing any work or wage earners and hence economically unproductive. This is precisely because housework is not paid work, therefore it is not recognized as work. This form of measurement of national output and productivity in a country is based on the Gross National Product or GNP. It is useful because it shows how much goods and services are produced and sold in a country. But it does not measure what types of goods are being produced in the country. For example, if a country's GNP is shown to have increased, it can mean that more goods are being produced for export or more weapons are being made, although there may not be enough food for everybody. Through GNP estimates one can calculate the aggregate national income, however one cannot measure the distribution of income from it. Most important, GNP does not measure goods and services with no monetary value attached to it as in the case of the British housewife, and when used in the Third World, GNP technique omits subsistence food production and a variety of informal activities in these economies e.g. child care, and breastfeeding, activities in which women are particularly concentrated. The GNP technique was the outcome of the enormous influence of John Maynard Keynes, a British economist whose economic theory formed the basis of economic development in all European countries after the Second World War. This GNP technique was also used in all Third World countries since the post war era. It was started as a drive

by the United Nations to improve national statistical services in these countries and to back this data collection with a system of international statistical collection, standardization and reporting.<sup>37</sup> In fact information based on this technique of data collection formed the basis of development planning in the Third World from the 50s onwards.

According to Barbara Rogers, 'The GNP and its variants are, to a large extent, a statistical illusion. It refers ostensibly to production; and increasingly it is being used, despite misgivings, as an indicator of national welfare.'<sup>38</sup> Quoting from Carolyn Shaw Bell of the Christian Science Monitor, 'although GNP refers to what is *produced*, it is usually figured by what is *bought*.'<sup>39</sup> Hence, 'By definition, then, if women's productive work is not paid, it has no place as *real production*.' She adds further, 'While this is a problem which has been discussed mainly in terms of domestic work performed by women in Western countries, it is even more serious for those in the Third World.' This problem was eloquently addressed by the ILO employment mission in Kenya: '... the sharp distinction between time spent on "economic" activities and on work for the family (fetching water, preparing food, teaching children and dealing with their ailments and so on) is ultimately arbitrary. Many of the services just listed do more to increase family welfare than services formally counted as economic... Although these problems have long been recognized in the literature on national accounts, they require a new and more pervasive significance when one begins to concentrate on the poor in predominantly rural countries.'<sup>40</sup> The absence of such data on women's activities in the domestic sector only goes to show how little economic importance is attached to their tasks and responsibilities. It is precisely because housework is considered non-productive that housewives are not considered part of the labour force. According to Gustavo Perez-Ramires, Chief of the Operations Section of the UN Population Division, defective coverage of women at all ages in many national data collections is especially marked with regard to the labour force.<sup>41</sup> 'Thus, with regard to women's employment, only 28% of the females in the world (that is over 550 million women) are considered economically active, as members of the labour force (compared with more than half of all males).'<sup>42</sup> Thus if the statistics were to be believed, it is the Third World countries where women are least economically active; for example, as little as 4% of North African women are active and 11% in Tropical South America. This gross omission of women can also be seen in Malaysia. According to the Labour Force Survey 1975, only 1.2 million women work

out of the total of 2.9 million who are of working age (i.e. 15 – 64 years of age). The rest are housewives, comprising 1.2 million, and girls still in school (0.5 million). Put it simply our labour statistics are saying that out of every 100 women who are of working age, 53 of them are not working or are unemployed.<sup>43</sup> According to the ILO Employment Mission of Kenya, where the majority of the population live in rural areas with very low incomes, 'pre-occupation with conventional definitions of the "labour force" becomes pointless':

'In official Kenyan statistics, it was assumed that 45% of women 'participated' in the labour force. The reality is that throughout the rural areas most women are working in the field – usually for much longer hours than the men.'<sup>44</sup>

Labour force definitions become especially difficult in the rural areas because many activities cannot be arbitrarily demarcated as 'economic' or 'non economic', for example many processes in food production. This is 'statistically arbitrary and for purposes of indicating living standards, meaningless'.<sup>45</sup>

Yet 'meaningless though such distinctions may be, they in fact lie at the heart of planners categorization of the labour force which treats women as marginal workers, if indeed they exist at all,'<sup>46</sup> says Barbara Rogers.

Apart from leaving women out of the labour force they are seldom given due and equal recognition with men in the work they do. This can be seen in agriculture where the farmer or peasant is often seen as a male. In the words of Barbara Rogers, 'it is the habit among most writers about Third World agriculture, of reserving such terms as 'farmers', 'peasant' or more fanciful terms as 'husbandmen' for men only.'<sup>47</sup> This form of thinking has the tendency of diminishing women's role and importance in farming and agricultural work.

The 'head of household' concept is another concept borrowed from the nuclear family system of the West which is used as a planning device for the Third World. John Galbraith characterizes this Western concept of 'household' in Third World economic systems as an extremely 'sophisticated disguise for the role of women'.<sup>48</sup> This concept ignores the household as comprising of individuals who have different preferences, needs and makes different decisions. By basing household choices on only one individual he says that 'the household, in the established economies, is essentially a disguise for the exercise of male authority'. Such authority derives from the receipt of income: 'in a society which sets store by pecuniary achieve-

ment, a natural authority resides with the person who earns the money. This entitles him to be called the *head* of the family.<sup>49</sup> This 'household' concept does not take into account the variety of indigenous residential patterns and working patterns in many areas of the Third World. Barbara Rogers says it is 'only a short step to defining the "head of household" as the financial supporter of the household, according to the Western stereotype of the breadwinner, and as *the* productive member of it, supported by a vague "family labour". All other members of the household are then defined as "dependants".' She continues, 'All that this kind of statistic indicates is that working women, arbitrarily excluded from the concept of participation in the labour force, are equally arbitrarily dumped by statisticians in a miscellaneous category with children, old people, and the sick and handicapped. This neatly obscures the fact that women in fact bear heavy responsibility for supporting genuinely dependent people.'<sup>50</sup> This 'dependent' status of the women dismisses women who are actually contributing a crucial part in the maintenance and care of the 'household' and where a man is actually the dependent. In many indigenous communities women farmers in Bolivia, Peru, Ecuador and Mexico actually provide the major source of income, combining production with long range trading in farm products and handicrafts.<sup>51</sup> This is also true of many women in communities of South East Asia and the entrepreneurial skills of our women in Kelantan and Trengganu lend credence to this fact.

Thus 'in confining their attention, and directing their questions, to men only, statisticians and planners produce the same kind of systematic bias as has been observed in the anthropological record. Men are likely to provide information, and interpretations of the community's economic activity, which reflect their own labour inputs and their own area of interest. This is all the more pronounced because of the well-established tendency of survey respondents to produce answers that they think the questioners want or expect to hear.'<sup>52</sup>

In this manner, women's work can be forgotten and omitted by male respondents as studies have shown. Even in data collection women's work can be concealed and diminished by the measurements which deliberately scale down women's contribution. One example is the various 'man units' measure used in agriculture. Barbara Rogers has shown from the Lilongwe Land Development Programme in Malawi by the World Bank that by measuring women's work in terms of the 'man units', women's output was noted as

less than men's although the actual labour force was made up more of women 'by almost one third' than men. 'In effect a woman plus children helping her is reduced to one, or less than one man unit. The most important result is to minimize the agricultural work done by women by reducing it to a fraction of a "man unit"'.<sup>53</sup> One of the most important measures by which decisions about development projects, programmes and policies are made is the cost benefit analysis. However, the reliability of this data according to Barbara Rogers can be questioned where women are concerned. 'It is one of the general problems of cost benefit analysis that it is concerned only with total costs and total benefits without regard to the distribution of these; perhaps its weakest assumption is that those receiving benefits from a project will somehow compensate those who suffer costs.'<sup>54</sup> According to Frances Stewart, cost-benefit analysis in fact favours certain sections of the community, normally the higher income groups<sup>55</sup> because cost-benefit is always measured in terms of the market price of an individual's work. Hence 'time saved by relatively rich people will appear to be of greater benefit to the community'.<sup>56</sup> Similarly, Barbara Rogers says 'the benefits of some health programmes are measured in terms of the increases in GNP which result from earlier returns to employment. Thus a programme directed at diseases afflicting mainly men would appear more desirable than one directed at maternal and child health.'<sup>57</sup> Another researcher has found that 'men's lives are deemed much more valuable in cost-benefit analysis than women'.<sup>58</sup> Women simply do not count because their work is not counted as work in the first place. 'Thus in the case of a large number of Asian women who work extremely hard to produce essential goods and services without which the family cannot survive, the marginal value product of that labour would be deemed zero.' Excluded then from the main stream of economic life with which development planning is primarily engaged, women enjoy only strictly marginal concern in the day-to-day preoccupations of planners. The solution, as with many other disadvantaged groups, is to categorize women as 'social problems', requiring the establishment of special welfare-orientated projects that can sometimes be attached at the margin of an economic development project, and sometimes be set up as separate 'women's projects'.<sup>59</sup>

### **Marginalization of women in development projects**

Since the UN Declaration of International Women's year in 1975, there has been a spate of development projects aimed at

women by the development agencies to 'integrate women into development'. As a result many countries have set up women's bureaux, women's departments within the ministries of labour, social welfare or social security.<sup>60</sup> In the words of a female consultant, Adrienne Germain, "women have been discovered"; yet, although international agencies seem anxious to spend "rather large sums of money" on women's programmes, they tend to restrict their "women's funds" to the Government's social welfare programmes. These contributions are to be "segregated from their major development programmes in agriculture, employment, development planning, education and so on".<sup>61</sup> According to Oki Ooko-Ombaka, Consultant for the Secretariat of the World Conference of the UN Decade for Women, New York, women's role is still only a marginal consideration in development strategies. 'Indeed most concerns of women are perceived as special interest issues which can be relegated to insignificant bureaux, while the serious business of government and development proceeds.'<sup>62</sup>

Drawing on the field projects and programmes of the United Nations Development Programme and the UN Food and Agriculture Organization in their treatment of women, Barbara Rogers has shown that these programmes reinforce further the Western stereotype model of the domesticated women. These go further to segregate women from the mainstream of development by assigning them special projects. Most of these relate to 'home economics' and its sub-branches or the training of jobs stereotyped by Western culture as being for women — hotel work in Singapore, clerical, secretarial and sales personnel in Senegal and work in textile factories in Thailand. In a UNDP report it was found that 'development policies are being more influenced by a segregation of sex roles than an understanding of the specific needs of women.'<sup>63</sup>

Home economics was based on the post-World War II ideology of 'maternal deprivation' and the forced return to the home of women working in industry and agriculture during the war, when they were needed then as all the men were busy fighting.<sup>64</sup> This doctrine of 'maternal deprivation' had been the guiding light of the UN development agencies since the post war era. In 1954 Margaret Mead the American anthropologist attacked it as 'a new and subtle form of anti-feminism in which men — under the guise of exalting the importance of maternity — are tying women more tightly to their children'.<sup>65</sup> Not only do planners view female farmers as if they were Western-style housewives, this 'pre-allocation of women and men to home-economics and agriculture respectively',

is deliberately designed as the development objective.

'Thus the goal of extension services has frequently been not the increase in farm-level productivity of women but rather finding ways to reduce their participation in agriculture through promotion of more homebound activities. Too often women's extension programmes have been exclusively oriented towards domestic science and home economics.'<sup>66</sup>

In traditional societies the care of children is the responsibility of the village elders, parents and the older siblings. This is the case in Kenyah society and in the East coast states of Kelantan and Trengganu, where women carry out business in the market place while the men babysit at home. Although it is an undeniable fact that women everywhere play a key role in the care of children, development programmes actually deny this role.

As Barbara Rogers puts it, 'the need is not for lessons in 'mothercraft' from self appointed outside experts, but for the means of feeding and maintaining the children. This means generating food and income by their own work in agriculture or other activities.'<sup>67</sup>

Moreover, many of these home economics programmes are quite divorced from the reality of these women. It has been shown in Africa that in one project the home economics teacher was trying to teach the women how to bathe their children with a baby doll in an imported plastic bathtub filled with warm water. The teacher also showed them how to use a nappy. Where the only water supply comes from the river or well, where hot water and bathtubs are not available, these forms of home economics can be said to be irrelevant to their needs. These forms of child care courses have been conducted for women in riverine agricultural communities in Sarawak as well.

Perhaps why many such programmes actually fail can be attributed to the demands these courses make on rural women. All these programmes involve activities that will take away their time — 'a commodity which is perhaps the most crucial constraint to reaching an adequate level of family subsistence'. Barbara Rogers aptly sums up the problem when she says Third World rural women 'generally spend a very small proportion of their time on activities covered by home economics courses. They have a vast amount of expertise on local foods, cooking and childcare, they probably delegate much or all of the housework to children, particularly during peak agricultural seasons, and their biggest need is to conserve their own time and energy by reducing domestic tasks to a bare minimum.'<sup>68</sup>



Another very popular approach to development among rural women is the introduction of handicrafts in the hope that this will generate needy income for them. However, this approach has drawn considerable criticism. Many of these projects are geared towards the production of luxury items more suited to the tourist market which is both limited and unreliable.<sup>69</sup> Ester Boserup believes this has the effect of placing them into low productivity jobs instead of towards more productive and remunerative employment. In fact she considers these projects as a form of compensation for discrimination in employment, and 'as a deliberate method of reducing the number of women competing with men' in the modern sector.<sup>70</sup> Commenting on a craft project for women in Bangladesh one researcher concludes that there has been no attempt to measure the earnings of the women involved, whether this represents a fair return on their labour, and how it effects family welfare.<sup>71</sup> According to Barbara Rogers, most of 'these operations are, on the whole, unrelated to demand for essential items by poorer people in the country itself. They certainly offer no solution to the needs of poor women to increase their agricultural productivity and/or their cash income.'<sup>72</sup>

Colonial policy was said to be strongly pro-natalist. In fact the introduction of anti-abortion legislation in the colonies reflected the male ideology of contemporary Europe and also a special interest in acquiring large numbers of labourers for commercial and other colonial ventures.<sup>73</sup> Barbara Rogers believes that colonial policy had had a considerable role on 'women's loss of control over their own fertility'.<sup>74</sup> In present development programmes, birth control or population programmes is one area where women are the prime target. Even in these programmes, male bias is evident. Many of these programmes 'are planned and organized mainly by men and aimed almost entirely at women'. Women here are more or less regarded as 'objects whose fertility is to be controlled (hence the phrase population control) rather than as people who wish to control their own fertility'.<sup>75</sup> More important women are hampered by the fact that in many Third World countries it is the husbands who control the women's fertility. For example, in a CAP report, a 27 year old woman who has had nine children said, 'I want to stop having children but my husband will not let me.'<sup>76</sup>

Even worse is the fact that many of the contraceptives introduced by population programmes in the Third World pose serious health risks to the women who use them. One of these is the injectable contraceptive Depo Provera. It is being used in 82 coun-

tries through the sponsorship of the International Planned Parenthood Federation (IPPF), the UN Fund for Population Activities (UNFPA) and the World Health Organization (WHO).

Side effects of women taking this contraceptive include headaches, weight gain, reduction of the body's resistance to infection, vaginal bleeding, and protracted infertility. Women also run the risk of giving birth to babies with birth defects, congenital heart disease and curvature of the spine, while breastfeeding mothers may pass on the drug to their infants through their milk.<sup>77</sup>

Family planning programmes in this manner has been shown to work against the interests of women.

Women's development programmes must recognize the needs of women as integral to the needs of their communities. As long as women are considered separate and marginal, development for women cannot succeed. Thus women's role in communal and reciprocal labour, women's contribution to subsistence production in agriculture, women as managers of their households, and the problems common to women in executing such tasks must be recognized so that these relevant features can be incorporated to mobilize them fully and successfully in development programmes.

### The new slavery

We have traced how Western male bias and concepts in colonial and development policies have led to the marginalization of women in agriculture and the relegation of their increased domestic tasks as non-productive work. The increasing effects of development on rural women have led to a steady displacement of women in the traditional sector and increasingly women are now drifting to towns to seek for low status, low paying and even hazardous jobs. With the creation of Free Trade Zones all over the country many of these women have taken their places working in the electronics and textile factories, working long hours just to keep alive. The daily wages are about M\$5 each which is barely enough to pay for rent and food. So they often settle for stuffy overcrowded lodgings and poor quality food. Many of them work overtime which means leaving for the factory at 10 in the morning and returning at 10 each night. According to one of them, 'Night shift is terrible. Some of my friends take pills to keep awake. Then the next day they cannot sleep and they take pills to help them sleep.'<sup>78</sup> Where does most of the money go? It goes to clothes and cosmetics via beauty shows and dances sponsored by management. Factory management actively encourages

them to spend their money on clothes and make-up. So the girls continue to work overtime in spite of the stress involved to earn money to pay for the new clothes, shoes and cosmetics. They are trapped – from the bondage of rural life they have fallen into the clutches of the consumer culture. This is not all, many of them are exposed to sexual harrassment at the work place. Abortions are actually a common feature among factory girls. For those not so fortunate any employment in the city will do so long as it keeps them alive. Here, on their own and without the support of the extended family system, women with children have to work twice as hard to feed the family and to manage the home.

## Conclusion

As a result of changes in traditional economic systems and labour relationships, women have today been reduced to a position of dependency vis-a-vis their male counterparts. This had never happened before in traditional economies where women contributed to their share of the economy and participated on equal terms in decision making processes in agriculture and affairs which affected them and the lives of their families. With their total exclusion from the cash economy in terms of ownership of land and access to power relationships with the larger society, women's status has fallen. With their further isolation in the domestic sphere, the burden of the care of the family, and housework, women have in fact become servants of their home and their husbands. On top of housework and childcare they have to contribute in cash crop production for which they are not given fair remuneration. These have all worked to decrease their economic and social status. The fall in status coupled with their heavier workload, inadequate health facilities in the rural areas and their reproductive and nurturing role have affected women's health and strength. Frequent pregnancies, (and abortions) and lack of good nutrition have in many cases led to premature death. It is a fact that the highest rate of hospital admissions for women after road accidents in Malaysia is due to complications in pregnancy.

With little monetary income and heavy work, women's basic nutrition requirements may not be satisfied. This is made worse by certain cultural practices where men eat first leaving the females with an inadequate share. For pregnant and lactating mothers this insufficient food will mean a poor start in life for their infants. Babies are born low in birth weight undermining their chances of survival and growth and development potential. In the absence of the mother's ability to breastfeed successfully due to poor nutrition,

the child's chances of developing its mental and physical potential is hampered, not to mention the tragedies and deaths among infants which have been fed on the bottle. Because of the male bias in development planning, women have been denied any form of aid or institutional support which are almost always focused on men even if women may be the ones who are primarily engaged in subsistence production. Schemes to improve agricultural and food production are aimed at men. Similarly new institutions for example co-operatives and marketing agencies have always given attention to the men as the head of household. These have further isolated women from active and meaningful participation that can increase their welfare and status.

Increasingly women are becoming de facto head of households through separation, deaths, male migration and male unemployment. This puts the burden of having to support themselves and their children solely on them.

With lack of education, women's opportunities for better employment and training are lessened. Education opportunities are biased in favour of males from a very young age. Young girls are always the first to be taken away from school when parents need help at home. Not surprisingly for most females, education stops at the primary or lower secondary level.

As less and less opportunities become available to women in agriculture, women are forced to seek employment elsewhere. Many of them go to the towns and cities in search of wage labour. They get employed as housemaids, factory girls or become self employed. These jobs are low paying, with low status and very little security. In factory work, women are exposed to hazardous and stressful conditions which are damaging to their health. They are also exposed to sexual harrassment and an urban culture and lifestyle. In the absence of any extended family or kinship support, many of them fall into 'disrepute' and suffer extreme alienation.

This paper has focused mainly on the position of rural women and the effects that agricultural development and development planning and policies have had on their lives. As such the solutions to the problems of these women have to be seen and understood within the context of the whole development process that is taking place both in the rural and urban areas.

## **Proposals**

1. For a start, more systematic research and data collection is needed to evaluate the role and contribution of women and children

in the domestic and subsistence sector. The treatment of women in quantitative analysis should be reviewed and all male bias should be removed from data collection.

2. A full fledged women's department should be set up in the Prime Minister's department to examine the problems of women. This body should be staffed and controlled by women personnel with adequate funding and top priority given to its programmes.

3. Women's problems and issues cannot be considered a marginal issue for the full integration and participation of women in development to occur. Women's programmes cannot be considered as welfare-oriented programmes in the same way the handicapped or the aged are singled out. These welfare programmes are usually the first to be cut back financially in government budgeting.

4. Women's overwork is one of the major obstacles to a better life and health for themselves and their children. Women's burdens must be lessened so that they can have more time for the welfare of their families and for cash generating activities. In this respect appropriate technology has an important role to play.

5. Any technology to be meaningful to women must thus focus on them. Technological changes in food production or agriculture must not displace them from employment or a means of earning an income. Also they must not be socially and culturally disruptive. They must be energy saving and time saving, and machines which they can operate themselves. For example, in food production, hand operated hulling machines, simple tools for weeding, carrying and storing water and so on.

6. Improvements in agriculture and food production must involve the participation of women. Agriculture extension programme courses conducted by the Ministry of Agriculture must be open to women. They should include training on food production, processing and marketing. Subsidies, incentives and aid must also be extended to women. This can be an effective way to create employment for women in the village and stop them from drifting to towns to seek low paying jobs at the expense of community ties and relationships.

7. Women must be able to influence policy and decision making. At the village level, women should have their own committees where they can be free to voice their opinions which may not be possible in a male dominated environment. Women should employ traditional existing structures for example reciprocal labour and work groups at the village level in marketing institutions for instance to effect

a greater participation to influence policies and decisions in co-operatives and rural credit institutions.

8. Health and nutrition programmes must be relevant to the needs of the women in these areas. More research should be carried out on nutritional value of local foods, correct weaning foods, and the availability of cheap and nutritious foods. Consumer education has an important role to play in making people aware of the dangers of additives, dyes and foods in the market and unethical sales marketing by manufacturers.

9. Breastfeeding should be actively promoted.

10. More research should be carried out into traditional and safer methods of birth control which will not affect their health and the health of their children and which will enable them to have more control over their own fertility.

It must be recognized that the solution for the improvement of women's status in the domestic and family sphere is not for them to reject these roles and behave like men because this will not bring about greater equality or justice for them. Society must give due recognition and importance to the role of women in the domestic and family sphere and the role and responsibilities of both parents in child care and management of the home.

In conclusion, women must examine their present problems in the light of present development strategies and work towards a redefinition of these roles so that there can be a more meaningful role for women in our society. For far too long have women been subjugated and relegated to a minor and ever subservient role in society. This discriminatory philosophy is still very much a part of our lives. It is time for we women to sit down and seriously rethink what are the appropriate roles for us to have in the future.

In doing so, we may find that the task is far from easy. For it is always easier to find out what is wrong, to grumble or to criticise. It is much more difficult to think out the solutions, for long-term proper solutions are by nature hard to come by. But the alternative to this hard work is worse — the continued treatment of women as second class citizens and second class persons. So I feel that the time has come for us to sit down and think of what should be done — and to stand up together and do it.

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# ROLE AND STATUS OF WOMEN IN THAILAND

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## Introduction

The struggle to liberate women needs the cooperation of all sectors of society, male and female. But it is necessary to stress the important role of rural women's organizations. More than half of the population in the rural areas are women and they are the disadvantaged group. They are unable to get a chance to develop their own abilities. No matter how many middle class women are educated or how many women can develop themselves, we cannot neglect those rural women. Otherwise the liberation of women will never come about.

Women must destroy all the restrictions which their oppressors insist on imposing on them, and establish a rural women's organization with the consciousness of liberation.

## Role and status of Thai women

The problem of inequality between men and women has a long and bitter history lasting for centuries. Throughout the history of Thai society, women have been looked down upon, depressed and dependent on men. They have been obstructed in their efforts to make any social advancement; they were oppressed so as to be only 'sex objects' or 'sincere slaves' for men. Of course, women were regarded as dumb, stupid and as 'flowers' or 'back feet of the elephants' as a Thai expression puts it. Literature and studies by many people attest that to a greater or lesser degree, Thai women have been oppressed throughout history.

From 1150 to 1350 was the Sukothai<sup>1</sup> period, which depended upon agriculture. Historians agree that during this period men were the ones who cultivated the land and women did the house work. No doubt the status of men, who controlled the economy must have been higher than that of women.<sup>2</sup> After the Sukothai period, the Ayuthaya Kingdom<sup>3</sup> was established in 1350. Men remained the leaders at all levels. They were even allowed to whip their wives. The ruling class could have many wives, and wives were

classified into many levels because the more wives a man had the greater he would be. Most of the literature in the monarchy period depicted women as 'sex objects' and 'flowers'.

A very easy way to get a pretty woman was to force her away from her parents or just take her away from her family. This was shown in Tra Sam Duang Law: 'The Lord bullied the people by taking their daughters to be a wife or servant.'<sup>4</sup> In the early Bangkok period, men were the ones who controlled the family. A study about women during this period indicates that the society imposed on women a way of life more strict than that of males. Women could not do anything they wished while men could. Women were taught to offer all happiness to men without complaining. There are four criteria<sup>5</sup> to indicate that the status of women during that period was very much depressed, and these are as follows:

1. Freedom in their own lives. They were not free to be alone; when they were young they had to be under the control of their parents and when they married they came under the control of their husbands. Society believed that the life of a woman was perfect when she had a husband. Woman *must* have a husband and only *one* husband.
2. Right to their own life. A women's parents and husband had full rights over her; they could give or sell her to anybody without asking her.
3. Right to love. She had no right to approach a man whom she loved while men could have as many wives as they wanted. When she was divorced for any reason, she became a 'worthless woman'. Nobody would marry her again.
4. Being a wife was no different from being a slave. She had to cater to the convenience and happiness of her husband, and could not get angry with him. A wife had to do all that was possible to keep her husband with her, otherwise she would feel 'dead but still alive'.

There were some changes in women's rights in the Ayuthaya and early Bangkok period but the role and status of women was still very limited.

The country began to open up through contact with the West with the signing of the Bowring Treaty in 1855 with England. In 1932 came the political change from a monarchic system into a parliamentary system.

Some laws concerning inequality between men and women were abolished. Although it was mentioned in the constitution

that men and women were equal, in practice the inequality still existed.

### Role and status of women since 1932

As mentioned earlier, contact with the outside world was improving. Trade was expanding to cities outside Bangkok and to the villages as well. The impact of expanding trade and capital made significant changes for women in many aspects. There were two levels of impact:—

#### *Urban women*

Mostly, urban women are educated people, coming from well-to-do families, who have a better chance to see the world. These people can see the discrimination against Thai women compared with women in other countries. There has been an increasing number of publications on women's rights and equality, but still the situation is difficult to change. The educated and rich women have chances to develop their own capabilities and to organize themselves to improve the status of women in society. For example in 1943, Lady Laiad Piboonsongkram, wife of Prime Minister P. Piboonsongkram, established the Thai Women's Cultural Centre. It was the first formal women's movement in Thailand. Some women representatives were appointed to press for changes in some of the family laws. This type of movement, although it could not solve the problems of lower class women, served as a stimulant to push women to play a more active role in society and gain acceptance. In 1949, there were many women contestants in the parliamentary campaign, and for the first time women were elected as Members of Parliament.

Now there are many groups of women campaigning for women's rights, but it should be noticed that most women's movements come from middle or upper class women. As a result, these movements are of benefit only to these upper classes. There is a lack of goals and objectives at the national level.

When we talk about women in urban areas, it is impossible not to mention those women who migrate to work in urban areas.

#### *Rural women*

It is true, as some people have said, that poverty is the same as oppression. In third world countries women are oppressed in two ways simultaneously, one by suffering from the economic system;

secondly, by being exploited by men who are suffering in the same economic structure.

It has been proved that rural women work very hard from early morning till the next morning. We can divide the role of women by types of jobs as follows:

#### **In the family**

Types of work are divided by sex; although it is not divided clearly, it can easily be seen that the housework is for women, for example, cooking, taking care of family members, making and mending clothes, preparing all consumer goods, clearing up the house, buying medicines and taking care of sick family members etc. Each duty does not use much energy at a time but many small things add up to a tiresome day. There can be no doubt that it is hard work. After finishing housework, she must go to help the men in the field and again, after coming back, she cannot take a rest because she must feed the animals, carry water from the pool (nearby or far away). Only when everyone has gone to bed, can she go to sleep. This unpaid hard work is for longer periods than men's work and also harder than urban women's. But the question of recognition of equal status of work with men is still unresolved.

#### **In the community or village**

Women take part in cultural activities. The activity usually takes place in a community centre, such as in schools or at the temple. Women have to prepare food for monks and everybody else. Women do not take part in administration or become a leader in any project or decision making; their role is limited only to using their labour. Social norms have much influence in giving priority to men to be leaders. Buddhist doctrine deeply influences the life style of rural people; for instance, only men can become monks, which provides the means for a man to improve his status in Thailand.

#### **Impact of capitalism on rural society**

The Thai people before 1932 relied more or less only on agricultural products. When relations with the industrial countries increased, there were some changes in production for self-consumption. After World War II, the government emphasized very much on technology and science, the target being industrialization.

The agricultural sector increased its reliance on technology and its dependence on capital. Roads, infrastructure and electricity, symbols of development, reached villages resulting in the breakdown of the traditional systems such as exchange of labour in favour of the use of money. All products had to be exchanged for money. When the villagers failed to produce the agricultural products and the return on their produce decreased, farmers fell into debt and often needed to sell their land to repay their debts and to survive. Poverty has affected the way of life of most villagers. Those who are in the labour force need to look for a job in the big cities so that they can send money home. But for widows, many cannot go to work in the towns. A widow has to seek work in the fields to earn her living and many of them become beggars.

More and more factories were built as a result of government policy, and these places welcome youth from rural areas. Textile factories, the main industry of the country, use and exploit female labour more than male. As appears from the application form of a bone processing factory near Bangkok a female worker must be single; if she wants to get married she must get the permission of her employer; if not, the employer will not employ her any longer. In some factories, once a female worker becomes pregnant, she must resign. In fact, this kind of contract is against the law, but what is remarkable is why it continues to exist. The reasons are:

- Those female workers' lack of education and knowledge of the law, and their bad economic condition, which does not allow them to refuse the job.
- The weakness of the government mechanism to help them.

According to a report of the National Statistics Office, 1977, 45.8% of the labour force are female, excluding women working as housemaids who make up 8.6% (1.9 million) of the female labour force. The low economic conditions force women to enter the labour force even more than before.

It is known that the rural women's lack of education and skills are such that their job alternatives when they migrate to urban areas are:—

- To use her own labour in exchange for a low income e.g. to be a worker in a factory or a servant in a house or restaurant with an income of about 200-500 baht per month.
- To work as a prostitute, masseuse, partner in a bar or a waitress in a restaurant.

- To sell small things at the roadside and when they really cannot get a job, sometimes they become beggars.

There are about 241,111 prostitutes in Bangkok alone, which reflects the crisis and failure of the rural sector. We see new types of businesses in Bangkok nowadays, which exploit oppressed females. e.g. sex tours, agencies offering girls for marriage to men in other countries.

### **Woman: The Lively Doll**

The use of women in advertisements by various companies as a means to sell their products is common in Thailand. It is very bad because it shows women are regarded only as objects, as robot dolls. Aside from that, these advertisements make women dream of a luxurious life. Living in a small world of her own, staying away from the reality of the outside world, a woman cannot see other women who are also suffering as victims in the same society. She overlooks her power and her role to create justice in her own society.

### **The National Women's Plan (1961-81)**

Women have been neglected for a long time. Let us look at the National Plans. 1961-6 was the first plan and during this period, the government concentrated on the basic economics of the country. The second one, from 1967 to 1971, concentrated on increasing the GNP and investment in the country. These two plans did not mention anything specific about women. In the third plan (1972-6), the world economy was in tension; problems of women were mentioned, namely how to increase the family income, and women's employment. The government increased the budget to improve welfare for women, but the target group, objectives, and strategy were not mentioned. In the fourth plan (1977-81), for the first time women's problems were considered. There was improvement in the law for women's rights.

However, if we look closely at the National Women's Plan, rural women are still neglected; they do not get priority nor serious help. The Rural Women's Organization can not be organized in reality. The Thai Women Farmers Association was established by upper class women. The chairperson was the wife of the Prime Minister (at that time); its activities do not even touch the reality of poor rural women's problems.

## Conclusion

In the long bitter history of Thai women, it was shown that the status of Thai women was depressed.

In the Sukothai period, the king ruled the country; it was a self-reliant society – women worked in the house while men worked in the field. When Ayuthaya established land belonging only to the king and royal family, men had to work for the king and royal family. The men could not earn a living for the family, so women had to take on this responsibility. The roles and duties of women increased, but their status was not equal to that of men.

After 1932 the women's movement increased but only in the society of the upper class and educated women.

Trade and industries were expanded, especially from the First National Plan; self-reliance in rural areas was destroyed, and production for trade and money (to buy consumer products) took place. Agriculture became more dependent on money; the labour force migrated to the urban areas. The unskilled labour and uneducated women had a very limited choice of jobs; they either worked as labourers or as prostitutes, but whatever jobs they got they were usually exploited.

Although the National Plan operated for 20 years, nothing has changed in such a way as to promote the role and status of women throughout the nation. If women's organizations continue to be prevented from gaining equal status, the equality and justice which we are seeking will never come about.

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# RURAL WOMEN IN SOCIAL AND ECONOMIC DEVELOPMENT

## AN INDONESIAN CASE

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### The current situation and the role of women in Indonesia

#### I. Demographic and Social Characteristics

In the framework of planning for social economic development, which has as its goal the attainment of a just and prosperous society through increasing production, expanding employment opportunities and improving the distribution of incomes, concern for the problems faced by rural women in Indonesia has increased.

With a total land area of 1,904,000 square kilometres, Indonesia in 1980 (population 147.4 million) had a population density of 77 per square kilometre, with Java and Madura being the most densely populated islands — 691 per square kilometre on about 7% of the country's total land area. The population density on the outer islands was 59 per square kilometre for Sumatra, 12 per square kilometre for Kalimantan, 52 per square kilometre for Sulawesi and 19 per square kilometre for the other islands. These figures clearly show the very unequal distribution of Indonesia's population.

The rural population was estimated in 1980 at 113.54 million or about 80% of Indonesia's total population, with a density of 325 inhabitants per square kilometre on 'agricultural land'. Females made up 50.3% of the rural population. (Population Census, 1980, Central Bureau of Statistics).

Another prominent characteristic of the population has been its rapid growth. During the period 1930-61 the average annual population growth was 1.5%; during the period 1961-71, it was 2.1%, and it continued to increase to 2.3% during 1971-80. It is believed that this increase was largely caused by declining mortality rate: within one decade the mortality rate had gone down by about 33% while fertility rate had decreased by roughly 8%. As a result of the greater decline in mortality rate than in the rate of fertility, the rate of population growth for 1971-80 showed an increase even though the fertility rate was decreasing.

The 1980 Census Data shows also that population growth was uneven throughout the country. The growth was less rapid in Java than on the other islands, which showed considerable variation. For example, from 1971 to 1980, Sumatra showed a growth of 3.4%, Kalimantan 2.8%, Sulawesi 2.3% and the other islands 2.9%.

Using the ratio of children aged between birth and four years to women aged 15-44 years (Child-Woman Ratio or CWR) as an indicator of fertility, the 1978 National Socio-economic Survey Data shows that the average ratio was 64 per 100 women. The ratio had decreased from 72:100 in 1971 to 68:100 in 1976 and then to 64:100 in 1978. This represented a decrease of 11% between 1971 and 1980. There was a significant variation of CWR between regions, but in general the CWR in Java (except in West Java) was lower (61 per 100 women) than on the other islands.

Marriage for both men and women seems to be one of the few social norms, particularly in Javanese society, in which exceptions are almost non-existent (apart from cases of the severely crippled or mentally disturbed). Looking at the proportion of males and females not getting married and, thus not forming the family base for having children, in 1971, only 50% of the young men or about eight million aged 15-19 remained single. By 1976 the percentage remaining single had leapt to 95% and then to 96% by 1978. For young women aged 15-19, 43% or about 5.0 million remained single in 1971. This percentage increased to 68% in 1976 and edged up to 71% in 1978.

These figures show that the trend has been towards an increased proportion of both males and females remaining single during ages 15 to 19 years. Perhaps the most obvious result from this trend is the postponement of the formation of a family base and the consequent reduction in births during this age period.

The new Marriage Law (P.P. no. 9/1975) implemented on 1 October 1975 shows that young women could marry at the age of 16 and men at the age of 19. It can be said that in many cases especially in the rural areas, the age for first marriage is low. Reasons for this are for example, the existence of strong ancestral custom, the *adat* for young marriages which affects the individual in so far as he is a member of society and not a private person; the opinion in the community that married women have a higher status than unmarried ones; and the opinion of parents who are freed from their responsibility by marrying off their daughters. Having the girls married also means having additional labour for the farm.

In the case of age-specific rates, it can be said that in the period 1971-5, for every 1,000 women aged 15-19 there was an average of 127 births each year. For women during their childbearing years the fertility rate during the same period was 5,110 live births per 1,000 women — this means that on a per woman basis there would be an average of 5.1 live births.

Infant mortality rates show that for female children in 1978, approximately 97 out of every 1,000 new female babies died before their first birthday. The male infant mortality rate was higher. In Indonesia as a whole, the infant mortality rate for females in 1978 was 0.0971 compared with 0.1156 for males.

Table 1 shows that the literacy rate of the male and female population had increased respectively from 10.83% to 47.46% and from 2.17% to 33.68%. In the period 1961-71 however, the figures show a lower rate of increase for the male than for the female population.

According to Table 2, the conclusion can be drawn that slightly over one-half of the eligible age group enrolled were in primary schools (age 5-14 years) and slightly over one-fourth were enrolled in secondary schools (15-19 years age group).

Increasing equality of conditions is usually interpreted as including greater equality between the sexes. One measure of equality is the equalizing of educational opportunity regardless of sex, or the narrowing of the sex differential for the population attending school.

Table 1. Literacy Rate by Sex and Region 1930-71

Region	% of Male pop.			% of Female pop.			% of total pop.		
	1930*	1961**	1971***	1930	1961	1971	1930	1961	1971
Indonesia	10.83	39.45	47.46	2.17	22.76	33.68	6.44	30.99	40.46
Sumatra	17.10	44.62	53.65	4.11	28.11	40.47	10.69	36.44	47.04
Java	9.72	39.41	47.15	1.43	22.05	32.28	5.43	30.54	39.54
Kalimantan	9.61	39.40	44.02	0.81	20.60	30.03	5.22	30.00	37.11
Sulawesi	12.47	33.36	43.46	5.42	23.64	35.22	8.90	28.42	39.27
Other Islands	8.45	33.71	40.67	3.25	17.56	30.07	5.85	25.51	35.37

Sources: \*Departemen and Landbouw Nijverheid en Handel, *Volstelling 1930*. Batavia Landdrukkerij, 1933.

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The 'equality index' in Table 2 in the last column is derived by obtaining the difference between the 1961 and 1971 sex differential and then reversing the sign; thus, the +8 for the 5-9 age group means that the sex differential between the number of children attending school has narrowed (more equality), but the -13 for the 15-19 age group means that the sex differential has increased (less equality) during the same period. From these data it can be concluded that there has been some movement toward greater equality in the lower age groups (5-9, 10-14 and 15-19 only in the urban areas), but that the movement has been toward less equality in the higher age groups. (Dwight Y. King: *Social Development in Indonesia. A Macro Analysis*, CBS, 1973 p. 17-18).

Table 2. Population attending school by sex and age-group, 1961-71 (number per 1,000 by sex in age-group)\*

Age-group	Male			Female			"Equality Index"
	1961	1971	Change	1961	1971	Change	
5 - 9 years	341	352	11	325	344	19	+8
10 - 14 years	647	643	-4	544	569	25	+29
15 - 19 years	232	304	72	115	174	59	-13
20 - 24 years	61	110	49	16	28	12	-37

\*King (1973) based on 1961 and 1971 Population Census, Central Bureau of Statistics.

## II. The role of women in the labour force

The 1971 Population Census used the labour force concept with a time reference of one week. 'Economically active' are those who are 'employed' or 'unemployed' (seeking work) in that week, while students, homemakers, income recipients and 'others' are classed as 'not economically active'.

Employed persons consists of persons 10 years old and above:

- who, during the week preceding the enumeration, worked for pay or profit for a duration of at least two days.
- who, during the week before enumeration, were not at work for at least two days, but are permanent workers, government or private employees who were not at work due to vacation, illness, etc.
- who are agricultural operators, waiting for harvest time or rainfall to operate the land.
- engaged in professional jobs, such as physicians, barbers, etc.

**Table 3. Population by sex, rural and urban,  
Indonesia, 1961 and 1971**

Region	Male	Female	Total
<b>1961</b>			
Urban	7,182,609 (15.0%)	7,175,763 (14.6%)	14,358,372 (14.8%)
Rural	40,656,471 (85.0%)	42,003,986 (85.4%)	85,660,437 (85.2%)
<b>Total</b>	<b>47,839,080 (100%)</b>	<b>49,179,749 (100%)</b>	<b>97,018,829 (100%)</b>
<b>1971</b>			
Urban	10,383,039 (17.8%)	10,382,233 (17.3%)	20,765,272 (17.5%)
Rural	47,896,127 (82.2%)	49,798,446 (82.7%)	97,694,573 (82.5%)
<b>Total</b>	<b>58,279,166 (100%)</b>	<b>60,180,679 (100%)</b>	<b>118,459,845 (100%)</b>

Source: 1. Population Census, 1961.  
2. Population Census, 1971.

Data in Table 4 shows the distribution of female population in the rural areas of Indonesia in 1971.

**Table 4. Female Population in various Areas  
of Indonesia, 1971**

Region	Total Population	Female Population*
Sumatra	20,813,000	10,330,000 (17.3%)
Java	76,102,000	38,664,000 (64.7%)
Kalimantan	5,152,000	2,538,000 ( 4.3%)
Sulawesi	8,535,000	2,136,000 ( 7.2%)
Bali and Nusatenggara	6,617,000	3,318,000 ( 5.5%)
Maluku and Irian Jaya	2,012,000	923,000 ( 1.0%)
<b>Indonesia</b>	<b>119,232,000</b>	<b>60,029,000 (100%)</b>

\*Percentage of total female population.

Source: Population Census, 1971.

Table 5 shows that based on household listing in July-August 1970 (part of 1971 Census preparation) there were 24.0 million

households of which 61.7% were farmer-households. Java has a lower proportion of farmers (57.8%). Average household size for Indonesia was 4.95, higher than for Java (4.66).

**Table 5. Population and number of Households, 1971**

Region (province)	People (1971)	Number of Households* (1971)	(% of Farmer — households)	Household size
Sumatra	20,812,682	3,906,916	(67.2)	5.33
Java	76,102,486	16,329,528	(57.8)	4.66
Kalimantan	5,152,166	892,680	(70.3)	5.77
Sulawesi	8,535,164	1,519,513	(70.1)	5.62
Other Islands	8,630,001	1,592,079	(77.1)	5.42
Indonesia	119,232,499	24,076,160	(61.7)	4.95

\*Based on Household Listing, 1970, Central Bureau of Statistics, Indonesia.

Source: Population Census, 1971.

According to the 1971 Population Census data, female population ten years old and above was 41.2 million making up 65.8% of the total female population in the country (which is 60 million) and 34% of the total population (119.2 million). And out of the 41.2 million, 33.1% or about 13.6 million were economically active, that is, employed or seeking work.

Table 6 shows the participation rate of the female population 10 years old and above in Indonesia according to 1971 Census data: it is higher for rural areas (35.3%) than for urban areas (23.2%). The data shows that for each age-group the participation rate of the women in rural areas was higher than in urban areas.

The higher participation rates of rural women indicate that they considered going to work outside the house as less of a problem: either they liked it or they had to go to work in order to get additional income for the family. This is also possible because jobs such as in agriculture, sales activities, home-industries, etc. are available in the rural areas. Most of these types of work in the rural areas can absorb women, especially unskilled ones, for work outside their homes.

Table 7 shows the total number of employed females and the ones seeking work in 1971. From the figures, it can be seen that almost 12 million, or 87.7%, of the total economically active female population are living in the rural areas.

**Table 6. Participation Rate of female population,  
10 years old and above, Indonesia 1971**

Age	Participation Rate of females (%)		
	Urban	Rural	Indonesia
10 — 14	6.9	15.3	13.7
15 — 19	19.2	33.8	30.8
20 — 24	24.2	35.8	33.4
25 — 29	26.1	37.2	35.3
30 — 34	29.6	40.8	39.0
35 — 39	31.9	43.2	41.4
40 — 44	34.6	46.6	44.7
45 — 49	34.2	47.0	44.9
50 — 54	33.1	44.7	43.0
55 — 59	27.9	42.3	40.0
60 — 64	24.9	36.3	34.7
65 — 69	20.4	31.6	29.9
70 — 74	16.2	25.3	24.0
75+	9.3	16.8	15.4
Total	23.2	35.3	33.1

Source: Population Census, 1971.

Table 8 shows that the rate of unemployment (those seeking work) according to 1971 census data was higher for female than for male; both in rural and urban areas: 10.7% (female) and 6.8% (male) for rural areas; 17.1% (female) and 10.8% (male) for urban areas.

The category of unemployed by the 1971 Census includes:

1. persons who have never worked before and are seeking work,
2. persons who have been employed, but at the enumeration time did not work but were looking for work,
3. persons released from duty and seeking work.

Table 9 presents the total economically active female population by industry in rural and urban areas which shows the differences between women in rural and urban areas.

The ranking of fields of industry among 'employed' women in rural areas in 1971 (Table 9) shows that *agriculture* (69.49%) was the most important one, second came *trade* (11.30%), third, *manufacturing* (7.94%) and fourth, *services* (4.68%). In urban areas,

Table 7. Females who are employed and seeking work, by age, 1971

Age	URBAN				RURAL			
	Employed	Seeking work	Total	%	Employed	Seeking work	Total	%
10 - 14	51,420	35,375	86,795	5.1	684,080	167,677	851,757	7.1
15 - 19	178,635	53,390	232,025	13.8	1,350,339	183,073	1,533,412	12.8
20 - 24	174,760	44,616	219,376	13.0	1,114,640	146,817	1,261,457	10.5
25 - 29	179,430	34,952	214,382	12.7	1,373,730	159,444	1,533,174	12.8
30 - 34	175,413	29,094	204,507	12.1	1,297,524	139,359	1,436,883	12.0
35 - 39	180,166	27,142	206,308	12.3	1,332,391	129,168	1,461,559	12.2
40 - 44	149,374	18,480	167,854	10.0	1,080,702	107,922	1,188,624	9.9
45 - 49	109,916	12,850	122,766	7.3	805,211	70,634	875,845	7.3
50 - 54	87,745	10,673	98,418	5.8	681,590	62,769	744,359	6.2
55 - 59	42,208	6,194	49,402	2.9	356,940	33,536	390,476	3.3
60 - 64	37,017	6,328	43,345	2.6	352,166	40,389	392,555	3.3
65 - 69	15,862	3,395	19,257	1.1	141,154	16,814	157,968	1.3
70 - 74	10,045	2,614	12,659	0.8	97,969	16,063	114,032	1.0
75+	4,806	1,981	6,787	0.5	43,865	12,196	56,061	0.5
T.T.	1,763	1,313	3,076	0.2	0	0	0	0
Total	1,399,560	288,397	1,687,957	100.0	10,712,301	1,285,861	11,998,162	100.0

Source: Population Census, 1971.



*services* was the most important for females (33.50%) followed closely by *trade* (29.71%) while *manufacturing* (11.27%) was third and *agriculture* (9.34%), fourth.

Table 8. Rate of unemployment (those seeking work),  
by sex, 1971

Age	Rate of unemployment (%)			
	Female		Male	
	Urban	Rural	Urban	Rural
10 — 14	40.8	19.7	41.7	16.0
15 — 19	23.0	11.9	22.3	10.7
20 — 24	20.0	11.6	16.1	8.3
25 — 29	16.3	10.4	8.5	5.9
30 — 34	14.2	9.7	7.5	5.4
35 — 39	13.1	8.8	6.8	5.2
40 — 44	11.0	9.1	6.4	5.1
45 — 49	10.5	8.1	6.8	5.0
50 — 54	10.8	8.4	7.4	5.3
55 — 59	12.5	8.6	8.1	4.9
60 — 64	14.6	10.3	9.4	5.8
65 — 69	17.6	10.6	9.9	5.7
70 — 74	20.6	14.1	12.9	6.1
75+	29.2	21.8	16.7	9.8
Total	17.1	10.7	10.8	6.8

Source: Population Census, 1971.

The differences in occupations among the 'employed' female population between rural and urban areas are given in Table 10, ranked as follows:

Ranking of occupation	Rural	Urban
no. 1	Farmers (65.08%)	Sales workers (29.08%)
no. 2	Sales workers (11.25%)	Services workers (20.39%)
no. 3	Production and related workers (8.54%)	Production and related workers (13.86%)
no. 4	Service workers (2.81%)	Farmers (8.24%)

Table 9. Female employment by industry, rural and urban, 1971

Industry	Total econ. active female population	Percentage in occupation		Distribution (in percentage) between	
		Urban	Rural	Urban	Rural
1. Agriculture, Hunting, Forestry and Fishing	8,495,000	9.34	69.49	1.85	98.15
2. Mining and Quarrying	6,128	0.14	0.03	38.04	61.96
3. Manufacturing	1,143,446	11.27	7.94	16.63	83.37
4. Electricity, Gas and Water Supply	1,482	0.07	0.00	76.52	23.48
5. Construction	12,509	0.31	0.06	41.98	58.02
6. Trade, Restaurant and Hotels	1,857,716	29.71	11.30	26.99	73.01
7. Transport, Storage and Communication	15,665	0.69	0.03	74.41	25.59
8. Finance, Insurance, Real Estate and Business Services	12,299	0.64	0.01	88.43	11.57
9. Community, Social and Personal Services	1,126,624	33.50	4.68	50.20	49.80
10. Activities not adequately defined	1,015,250	14.33	6.45	23.84	76.16
Total	13,686,119	100.0	100.0	12.33	87.67

Source: Population Census, 1971.

Table 10. Female employment by occupation, 1971

Occupation	No. of Employed Women	Percentage in occupation		Distribution (in percentage) between	
		Urban	Rural	Urban	Rural
1. Professional, Technical and Related workers	284,105	7.24	1.35	43.00	57.00
2. Administrative and managerial workers	11,459	0.41	0.04	60.30	39.70
3. Clerical and related workers	128,667	5.39	0.31	70.69	29.31
4. Sales workers	1,840,466	29.08	11.25	26.67	73.33
5. Service workers	680,896	20.39	2.81	50.55	49.45
6. Farmers	7,947,639	8.24	65.08	1.75	98.25
7. Production and related workers, Transport equip. Operators	1,258,477	13.86	8.54	18.60	81.40
8. Others	1,534,410	15.39	10.62	16.93	83.07
Total	13,686,119	100.0	100.0	12.33	87.67

Source: Population Census, 1971.

Distribution of occupations in rural and urban areas shows that outside of agriculture, more rural women had occupations in trade (sales workers) and in production, while occupations in services were equally distributed among rural and urban female workers. .

One important factor related to the working status of female workers was their educational attainment. Table 11 shows that 62% of the 'employed' female population in rural areas had never entered formal schools; for employed females in the urban areas the percentage was lower (42.5%). Further, fewer working females had completed elementary school education in rural areas (12.5%) than in urban areas (19%). The percentages of employed females with high school and academy or university education in rural areas were very low — 1.9% and 0.04% respectively. They were much higher for urban female workers — 15.8% and 1.5% respectively.

From these facts, it is clear that the most important problems to be considered are:

- how to increase the level of education of the employed women, especially those in the rural areas;
- how to create new work possibilities for females with increasing participation rates (31% in 1971). Also more attention should be given to females who work under modern working arrangements, such as government employees, factory workers, etc.

Table 11. Employed Females by Education, 1971

Completed level of education		Urban (%)	Rural (%)	Total (%)
1.	No schooling	42.5	62.58	60.2
2.	Elementary school (not completed)	21.1	22.92	22.7
3.	Elementary school (completed)	19.0	12.53	13.3
4.	Junior High School: General	5.6	0.80	1.4
	Vocational	2.6	0.55	0.8
5.	Senior High School: General	3.2	0.16	0.5
	Vocational	4.4	0.42	0.9
6.	Academy	0.7	0.02	0.1
7.	Universities	0.8	0.02	0.1
Total		100.0	100.0	100.0

Source: Population Census, 1971.

Table 12. Female Labour Force by status and industry, 1971

Status	Female % compared to Male %	Industry (female only)			
		Agriculture H/F/F	Manufacturing	Trade, Restaurant Hotels	Community, Social/ Personal Services
1. Own-account worker:					
(F)	3,645,864 (26.6%)	1,791,526 (21.1%)	333,781 (29.2%)	1,302,119 (70.1%)	107,296 (9.5%)
(M)	11,178,723 (40.5%)	—	—	—	—
2. Employer:					
(F)	342,956 ( 2.5%)	256,023 (3.0%)	17,908 (1.6%)	38,017 (2.0%)	17,433 (1.5%)
(M)	1,198,164 ( 4.3%)	—	—	—	—
3. Employee:					
(F)	3,855,200 (28.2%)	2,012,123 (23.7%)	518,658 (45.1%)	190,636 (10.3%)	17,433 (1.5%)
(M)	9,752,626 (35.4%)	—	—	—	—
4. Unpaid family worker:					
(F)	5,445,211 (39.8%)	4,435,328 (52.1%)	273,099 (23.9%)	326,944 (17.6%)	97,987 (8.7%)
(M)	5,002,699 (18.1%)	—	—	—	—
Total					
(F)	13,686,119 (100%)	8,495,000 (100%)	1,143,446 (100%)	1,857,716 (100%)	1,126,624 (100%)
(M)	27,575,097 (100%)	—	—	—	—

Source: Statistical Yearbook of Indonesia, 1975, C.B.S., Jakarta, 1976.

Table 12 gives data on the status of the 'employed' female population in rural and urban areas. Based on this data, the role of employed females outside the home may be shown by adding up the number of females who are employers and the number who are employees, both of which status are relevant in a money economy.

Of the four types of industry, namely, agriculture, manufacturing, trade and services (Table 12), employment opportunities outside the home for rural females were most important in *services* (81.7%), followed by *manufacturing* (46.7%), while *agriculture* ranked third (26.7%) and *trade* fourth (12.3%).

In comparing the status of employed males and the status of employed females, Table 12 shows that:

- a) for *Females*, most important was the status of *unpaid-family worker* (39.8%); followed by the status of *employee* (28.2%) and of *own-account worker* (26.6%).
- b) for *Males*, most important was the status of *own-account worker* (40.5%); followed by the status of *employee* (35.4%) and of *unpaid-family worker* (18.1%).
- c) a greater percentage of the female labour force are in non-money economy than the male (40% of the female labour force and 18% of the male are *unpaid-family workers*).

### III. Women's participation in 'household work' and 'income-earning work'

Based on research data (November 1977 – October 1978) collected from samples of 60 households in each of two villages in West Java, the following section will discuss some findings and their implications for action. Samples were selected using the landholdings data from earlier surveys, to provide approximately equal groups of households in each of the three following classes: (a) landless/near landless (less than 0.25 hectares); (b) small farmers (0.25 – 0.5 hectares) and (c) medium/larger farmers (more than 0.5 hectares) (Pudjiwati Sajogyo, 1981).

- (1) Rural women should not be considered a homogeneous or uniform group (i.e., having the same characteristics, needs and problems), but must be distinguished into different groups or classes. The primary bases of this heterogeneity are wealth and income (which are closely related to access to productive resources, particularly land).

Other sources of heterogeneity must also be recognized, for example differences in education, experience and exposure to the outside world (which may influence attitudes, receptivity to change, and roles as decision-makers).

- (2) In the two villages, there is apparently a strong norm that a wife should participate in income-earning activity alongside the husband. Besides this, household tasks are still considered the tasks of women/wives. Thus rural women shoulder a double burden of work.

This fact requires attention, since one may observe signs that the implementers of government programmes and services are not aware of the existence of this norm, but tend rather to see the role of women as restricted to housework, child-rearing, etc.

- (3) National statistics show that almost one-fifth (19.1%) of household heads in rural Java are women. It is therefore incorrect to assume that rural women can be represented by, or are dependent upon, men in such matters as:

- obtaining government services (credit, extension etc.),
- income earning,
- participation in social institutions, public life and community decision-making.

- (4) *Labour utilization of rural women\**

- a. The time spent by women in household work is long and intensive. For the majority of households and particularly low-income households, this work requires much time and energy due to the lack of technology and facilities. For example, the use of firewood in cooking requires much time both to collect it and in the cooking itself; collecting of water for laundry and other household purposes requires time and heavy work when the water-source is far from the house of those with no access to wells.

Of the total amount of time given by women from all strata to household work in both villages, it would

\* The labour utilization or time allocation analysis is based on the assumption that in economies where the household is the main unit of production, consumption, reproduction and social-economic interaction, women's activities cannot be understood in isolation but require analysis of the division of labour among all household members.

seem that the role of the rural women in the field of production is still the most important one, with an average daily expenditure of labour between five and six hours. Findings show that women from the better-off group (III) work as hard as those from the poorest group (I). Of the various tasks that exist, preparation of food is the one given highest priority by mothers (this work requires almost three hours a day). The expenditure of labour by men averages between half an hour and two hours a day) so it can be said that men also play an evident role in household work.

Women in the middle and upper income groups are able to reduce drudgery of household work because they own better equipment and facilities (oil-stoves, wells, etc.). Housework is often assigned to others (young relatives from poorer households, and in some cases paid servants).

- b. The role of women in income-earning work in the two villages cannot be overlooked; for all strata such work involves an average of between two and four hours a day and covers a wide variety of undertakings (farming, work as a farm labourer or as a non-farm labourer, trade, handicrafts and so on). If these two fields of work (in the household and in direct income employment) are combined, the work load of women exceeds that of men. Women spend between seven and ten hours per day on the average in work of various kinds whereas men spend only six to nine hours.
- c. Returns to labour (in rupiah per hour) obtained by female workers employed as labourers (both in agricultural and non-agricultural work) and in the field of services are on the average smaller for all levels of society in both villages than the returns to labour obtained by men. In the case of women from the poorest stratum, employment as farm labourers gives the highest return (almost Rp. 50 per hour of work); however, higher up the economic scale it is employment in services that yields the greatest returns for women (two or three times the returns obtained from work as farm labourers).



(5) Organization of the farm household in rural areas, wherein the results of household labour are used to provide for the household's needs, receives a labour input from all members and represents the product of their labour expenditure. The income per work unit in this case cannot be separated from the results obtained directly from the work unit.

a. It was found that in the 'rural agricultural' village the average number of hours per day given to income-earning work (farming, labouring and other work) by the household (40%) is greater than the number of hours devoted to household work. The opposite is true in the 'semi-urban' village.

b. In the field of agriculture, since the better-off households control greater areas of land, it is these households that obtain the greatest incomes in both villages (the 'semi-urban' village: Rp. 84 per hour net or Rp. 125 per hour gross, with a 42% expenditure of time; the rural-agricultural village: Rp. 63 per hour net or Rp. 93 per hour gross, with a 53% expenditure of time). Returns to labour for the poorest households (area 3), which are in the 'semi-urban' village, are only Rp. 17 per hour net or Rp. 28 per hour gross, with an 11% expenditure of time.

c. In the 'rural agricultural' village, it appears that the returns to household labour for other kinds of employment requires a far smaller expenditure of time than does agricultural work. Returns to labour are highest in the better-off households for other kinds of work, yielding Rp. 183 per hour with a time expenditure of 18%.

d. Employment as a hired labourer still appears to be important for households from all strata in both villages. It was found that labouring work for the better-off households in the semi-urban village brings the highest returns, Rp. 49 per hour, for the lowest expenditure of time, 10%.

(6) The level of income and the level of household expenditure are important indicators by which the household's standard of living can be judged. From research in the two villages it would appear that in both villages:

- the poorer households spend more on food, other consumer goods, loans and the repayment of loans than they earn as income (from farming, labouring, loans, donations, remittances and other sources);
- it is very evident that in the case of the better-off households household expenditure is smaller than household income.

One aspect of interest here is the importance of donations or remittances which have a great effect upon household income at all levels of society. This can be seen from an examination of stratum II households, especially in the Sukabumi village, where household expenditure would be greater than income if it were not for these remittances; in fact without the remittances the households in this stratum would fall into the category of poor households (Sajogyo, 1973).

- (7) Since the contribution made by agriculture to the income of the poorest households is extremely small, there is need for measures to expand and increase job opportunities that lie outside agriculture and bring better earnings. As far as possible such efforts should be made within the rural region itself and should involve the use as much as possible of local materials; such a policy could at the same time stem the flow of greater movement to urban areas. In efforts to overcome this question of 'being pushed out of agriculture', it should be remembered that non-agricultural undertakings (which give lower returns than farming itself) are carried out because households need such work. Efforts to deal with the matter require measures designed to increase various credit/market services in an intensive way, to increase household income and to increase capital for undertakings that will give employment to other villagers who need it.

In the case of women, especially those from the poorest stratum who need additional income in order to meet the primary requirements of life for their families, the types of work to which they have access are more restricted and even the returns to labour are lower than those enjoyed by women from the better-off strata. This is even more evident when a comparison is made with the situation of men, since the poorer women are at a disadvantage in

having more limited education and skills. In fact, the first step to be taken involves improving education so that rural women can become clever, intelligent and creative and can acquire more skills and thus have access to better income-earning opportunities. In this way they and their families will be able to attain a more suitable standard of living. Nevertheless, it must be remembered that rural women (from the better-off and poorer strata) have very little time that is really free, since their burden of household work is quite heavy. In addition to formal education, 'functional' education designed to overcome this problem is the most suitable approach, with the assistance of women leaders as executors at the local level and as extension workers at the village level. Experience shows that in this matter of women leaders in the village (particularly those who are executors), their involvement demands 'willingness' both on the part of their families and also on the part of the male population in general.

Those who plan and implement policies (from central to local level) should base their concepts upon the norms that exist in rural areas, that is, upon the fact that the rural woman has two roles: as a wife, mother and household worker and also as an income-earning worker. The various service institutions should fit in with the needs of women: family welfare, credit, agricultural extension work, marketing and so on.

#### IV. Women's participation in decision-making

The decision-making process in which husband and wife participate within the household shows many variations, beginning with a pattern in which decisions are made by the husband or wife alone and continuing to a pattern in which decisions are made by husband and wife together, with one or the other or even neither having greater influence.

Norms which state that only the husband is involved in decision-making in the field of production, or that only the wife has a part to play in the making of decisions about expenditure for food consumption, were not encountered in a 'pure' state in the villages under study. Five variations in the decision-making pattern were found in the aspects of life that were investigated. In both of the villages the tendency was for decisions to be made by husband and wife together; in the 'semi-urban' village the pattern whereby deci-

sions were made together with neither person predominating was striking, while in the 'rural agricultural' village more cases were encountered in which decisions were made together but with greater influence exerted by the husband. Thus facts imply that the various services and extension work should be directed to husband and wife as both parties obviously need them in keeping with their different roles. It is not sufficient to give guidance in the matter of malnutrition among pre-school children only to the mothers who look after the children, since the husbands also play an important role in the making of decisions about expenditure on food. In the case of family planning, too, extension services should be directed to both husband and wife, for although the woman plays a big role as wife and mother, the man as husband and father also has an important role as a decision-maker in such matters as the number of children desired in the family and the type and cost of education for those children.

The fact that women rarely enjoy the status of leaders in rural areas both at the hamlet and also at the village level reflects the lack of community attention to the aspirations and interests of women in these areas.

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## SUMMARY OF DISCUSSION IN COMMITTEE III

The committee's discussion was based on the three papers presented. The discussion can be broadly divided into four general themes namely:

- the role of religion in attitude formation among rural women;
- discriminatory laws against women;
- problems encountered by women and women activists involved in women's issues;
- role of women as housewives.

### The role of religion in attitude formation among rural women

It was said that women in Thai society are considered as 'obstacles to enlightenment'. Government policy officially 'subscribes' to the view by allowing Thai male civil servants three months leave to become monks (as monkhood is highly respected in Thai society), whereas women are not granted this privilege. It was felt that many educated women in Thailand today want equality to practise religion like men (not as becoming nuns which is actually a form of servitude to male monks in the temple).

It was recognized that religion does not view women as equal to men. Women are considered the 'hind legs of the elephant' in Thai society.

In Indonesian Muslim society, religion also plays an important role in influencing men-women relationships. For example, when Muslim females want to marry, they have to get the permission of the family, whereas men do not have to.

And although polygamy is restricted to only certain conditions under the law, it is in practice widely accepted. In fact, polygamy is common in rural Java.

In Malaysia, it was recognized that Muslim women were ignorant of their rights under Islam. In fact this situation was more prevalent among educated urban women than with rural women.

It was also recognized that there was an urgent need for women's groups to make strong representation to the state rulers (*sultans*) in this country on the issue of polygamy as the *sultans*

were officially the heads of religion of their respective states under the federal constitution.

### **Discriminatory Laws against Women**

It was noted that in Thailand, in the field of politics and government administration, women are barred from high office like the post of District Officer, Governor, Public Accountant or village head as women are not allowed to take part in village elections.

Wives are entitled to own property only where there is a prenuptial contract to this effect. Women cannot use adultery as a ground to divorce their husbands, although husbands can divorce their wives on this ground. A wife can do so only if the other woman is treated by her husband as a major wife. Women married to aliens cannot convey Thai nationality to their children even if they are born in the kingdom.

The Prostitution Suppression Act of 1960 discriminates against women because only women prostitutes are arrested under this Act. Organized crime also has the protection of the police under this Act, for example in cases where raids on brothels and tea-houses are conducted, only female prostitutes are arrested whereas owners and pimps (normally male) get away scot free. It was also noted that corruption is always involved.

The committee suggested that the problem of prostitution must be seen within the context of the problems of poverty and deprivation in the rural areas.

However, it was observed that the status of Thai women is getting better with major changes in family law. Women have access to education although they are still barred from the military academies.

In Malaysia, women in textile and electronic factories are barred from forming unions. There is an unwritten agreement between the companies and the government that this policy is put into practice. This is not the case in Thailand.

However, it was agreed that women in both these countries are not active in trade unions because of male attitudes towards articulate and outspoken women. In fact in Malaysia, the textile unions are all male dominated although the majority of workers in this industry is female. The situation arises where you get 'women's sections' being formed in these unions instead. In Thailand unmarried women were also discouraged from actively participating in union

activities as their chances of marriage would be jeopardized.

In the Philippines equal protection is granted to both men and women before the law. Wives are allowed separation in the case of adultery and concubinage.

The committee felt strongly that the registration of trade unions should be promoted instead of suppressed. It was suggested that the unions of the transnational corporations (TNCs) in their home countries be mobilized to protect against the labour policies of TNCs operating in the Third World.

### **Problems encountered by women and women activists involved in women's issues**

Women in rural Thailand do not perceive their inferior status or that they are discriminated against even though they play a key role in agriculture, in the care of the family and management of the home.

In Thailand there is a growing awareness that women have to assert themselves more.

In Indonesia, many enlightened rural women are demanding greater participation in terms of access to rural credit and agricultural extension services.

It was recognized that Government policy in Indonesia from the national to the local level is very much male oriented and urgently needs to be changed.

In Indonesia although there is joint decision making at the family level, the element of male dominance is the norm.

In Thailand there are two kinds of views held by women's groups.

- a) the elitist group who view women's problems in their society subjectively and
- b) the grassroots group who is actively involved in working with women, e.g. prostitutes.

Attempts were made to get these two groups of women together for discussions as a result of which the elite group have become more enlightened about the problems of women in their country.

In the Philippines, sex tourism is a very major form of exploitation against women.

The working conditions of women are also very bad. For example, in the micro-processing, garments and food processing industries, Filipino women work for 16 hours a day and their living conditions are very bad. Women are allowed to join unions but even in 'female-industries' males dominate in these unions. Trade unions are very weak and fragmented in the Philippines.

### **Role of Women as housewives**

It was agreed that the role of women in housework was not given due recognition and status. Housework should be given proper recognition in terms of time, energy expended, important work and status. Men must share women's work in the home to appreciate her work and role. It was also suggested that housewives should be allowed and encouraged to unionize.

It was recognized that education was a necessary prerequisite in bringing about awareness of the importance of housework as *work*. Both men and women must be educated together so that both can understand and appreciate each other's contribution. Education should be both at the formal and informal levels.



## COMMITTEE IV — PARTICIPATION IN DECISION-MAKING

### MOBILIZATION AND ORGANIZATION FOR PARTICIPATION IN DECISION-MAKING

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There is a qualitative difference in the concept of human rights between the industrialized countries and the developing countries. In the former, the fundamental problem is one of protection of universally recognized human rights, particularly civil and political rights. Human rights, manifested in the enjoyment of personal security as well as civil and political rights, constitute the warp and woof of the struggle for justice. But these two categories of human rights alone are not adequate for the peoples of the developing countries. For them, the problem is not only one of protecting human rights as such; it is also the need for redesigning of institutions because legal structures, as they exist, often times operate as obstacles to the realization of human rights. In both cases, these are at the very core of the struggle for justice in the developing countries.

Indeed, to many people in the rural areas of South East Asia, the concept of human rights as it is known in the industrialized countries is quite meaningless because it is almost irrelevant to their daily preoccupations. To many of those doomed to an unending struggle for survival this concept appears no more than the right of ruling elites to perpetuate dependency and exploitation. This becomes obvious when one considers that in the developing countries of South East Asia, large numbers of people live at the subsistence level.

The World Bank has estimated the number of those in absolute poverty in our world two years ago at 800 million. Even if we were to take a conservative figure of only half of this number that would still be 400 million living a desolate, subhuman existence. These poorest and deprived peoples live in conditions of permanent undernourishment; they have no certain access to water and what there is is often not drinkable; they are subject to all sorts of endemic illnesses such as schistosomiasis, malaria, cholera and parasitic

worms; they do not have regular access to the most elementary education; the women have to work 15 to 16 hours a day to look after their homes and families and their productive work is often extremely arduous; the expectation of life is less than 50 years and infant mortality is above 150 deaths per 1,000 births. (World Bank Report, 1979). And the greatest concentration of these absolutely poor is in our region — in South and South East Asia. Half the population of the world suffering from hunger are to be found here; in our region, eight million children aged under five died during 1980, and seven million children between the ages of six and eleven could not go to school.

Three quarters of these people in absolute poverty and thus deprived of their basic needs for food, shelter, clothing, education and health services, are in the rural areas. Experience has shown that in our region, national development plans have not given enough attention to the needs of rural people: the small farmers, the tenants, the landless workers, the small fishermen. In view of the fact that this class forms the majority population in South East Asia, it is evident that its constituents have not been able to participate in development in accordance with the need to achieve national well-being and self-fulfillment.

The condition of the people in the rural areas has hardly changed in the last 30 years. A recent workshop in Bangkok (ESCAP: Social Problems of Low Income, February 1981) has found out that these people are not only largely excluded from the processes of change in their societies as a result of their subordinate status, but even their existing precarious positions are threatened by interests which seek to monopolize more and more wealth, resources and power:

‘That situation of discrimination against and exploitation of masses had not arisen by accident or through the inherent incapacity of the poor to better their own lives; rather it had come about as a result of historical processes which resulted in the development of inequitable systems of production (land, labour and capital) in the hands of a few and the consequent poor distribution of output. Maldistributive economic structures were complemented by maldistributive social structures and political systems must be interpreted in that light.’

Although development became the fashionable slogan in the Third World after the Second World War, it has hardly altered the

situation of the poor in the rural areas. In strictly economic terms, development for the past three decades has meant the capacity of a national economy, whose initial economic conditions has been more or less static for a long time, to generate and sustain an annual increase in its gross national product at rates of perhaps 5 to 7% or more. On the whole, development in the 1950s and 1960s was nearly always seen as an economic phenomenon in which rapid gains in overall per capita GNP growth would either 'trickle' down to the masses in the form of jobs and other economic opportunities, or create the necessary conditions for the wider distribution of the economic and social benefits of growth. Problems of poverty, unemployment and income distribution were of secondary importance to 'getting the growth job done'.

The 1970s started a reappraisal of development measures in the developing countries. But by then it had become clear that many developing countries were growing economically, in some cases, in fact, even growing faster than some industrialized countries. At the same time, the 40% absolutely poor in the countries in the region were getting even poorer. Thus the dilemma of maldevelopment: GNP growth and declining incomes for the people.

It was also becoming increasingly evident that this model of growth was creating even greater inequalities among the peoples of the regions, with those at the apex of the economic pyramid amassing for themselves the fruits of growth while the rest of the population were being bypassed in the process of development.

The realization grew that the economic problem of the poor countries of Asia was not as simple as it had seemed; that it was not adequate to remedy the situation, that poverty was increasing further and unemployment was increasing further and inequalities were increasing further. In the words of Goulet,

'... The prevalent emotion of underdevelopment is a sense of personal and social impotence in the face of disease and death, of confusion and ignorance as one gropes to understand change, of servility towards men whose decisions govern the course of events, of hopelessness before hunger and natural catastrophe. Chronic poverty is a cruel kind of hell; and one cannot understand how cruel that hell is merely by gazing upon poverty as an object.'

Even during these remaining years of the 20th century, it is evident that Asian societies, by and large, are characterised by greater poverty, greater unemployment and greater social and eco-

nomic inequalities. Indeed, most Asian national economies are characterised by dualism: an affluent powerful elite dominating a poverty-stricken population. The fruits of growth have gone to those who need growth the least. The rise of palace millionaires is the most conspicuous example of a process whereby families associated with high figures in the state apparatus have benefited from licences, contractorships and other forms of privileged access to business opportunity. In the meantime the number of people below the poverty line has risen dramatically.

One aspect of this 'maldevelopment' has to do with the urban bias in development planning which is shown in the way urban development is paid for by those who live and work in the rural sector. As the developing countries do not have adequate resources to provide enough employment in their thousands of villages, they decide to concentrate their efforts to improve certain selected urban pockets. But even for this urban development, loans are required; and loans must be repaid. To repay loans, foreign currency must be earned through exports. But the industrial exports of most developing countries can hardly compete in the world markets.

Julius Nyerere speaks of how urban development is paid for by those who live and work in the rural sector: 'Where, then, shall we get it from? We shall get it from the villages and from agriculture. What does this mean? It means that the people who benefit directly from development which is brought about by borrowed money are not the ones who will repay the loans. The largest proportion of the loans will be spent in, or for, the urban areas, by the efforts of the farmers.' In this scheme of things, peasants participate, not for their own development, however, but for the benefit of a minority that lives in the urban areas.

Although official technocrats in South East Asia have generally looked at growth in terms of GNP, many intellectuals have identified the fulfillment of basic needs as the priority objective of economic policy. Basic needs in this sense are the minimum necessities, both material and non-material, the lack of which would work absolute damage to human life. But even those who believe that the fulfillment of basic needs is the point of departure and minimum basis for self-reliant development are not agreed on the strategy for achieving it.

The conservative basic needs strategy is concerned with the problems of coping with poverty. It identifies the poor and quantifies poverty. The tendency is to see the 'poor' divorced from social reality and relationships as a stratum (e.g., the bottom 40%) and as

a target group whose poverty is a quantifiable deficiency. Problems of measurement of poverty immediately become a major issue. Measurable variable (e.g. undernourishment or illiteracy) which may often be symptoms of the problem, tend to become the problem itself. Measurable aspects of poverty tend to get over-emphasized while qualitative aspects are either omitted or glossed over. In the definition and implementation of this basic needs strategy, participation in decisions tends to be additional and optional. In sum, this strategy degenerates into a welfare system delivered by the institutions of state.

The radical concept of basic needs strategy, on the other hand, starts by attempting to tackle the structural causes of poverty. The major relationship in which virtually all the poverty stricken are involved is that of working for, or under the control of someone else. The initial problem, therefore, is to shift the balance of power in favour of labourers and all those who are in contractually weak positions with regard to owners of the means of production (Dias, Blackie, Caesar).

The first strategy is what is obviously followed by consultants, state institutions in developing countries and international donor agencies. The second strategy is less acceptable because in it the poor must increasingly participate not only at the moment of distribution where they are often in a position of disadvantage through indebtedness, but also in the production decisions.

In the radical strategy, the essence of the human rights struggle in the developing countries, in addition to the need for a scrupulous observance of civil and political rights, centre on the enhancement of the ability of the poor and disadvantaged to assert for themselves the right to development. As a corollary, the basic means towards the protection of human rights in the developing countries lies in preventive action — e.g. by securing real and meaningful participation as a means of creating structural conditions which are less amenable to violations of human rights (Alston).

It should be mentioned, however, that effective participation by the disadvantaged cannot be achieved without destroying the conditions which have given rise to relations of domination and dependence among peoples. Unless opportunities were opened for active participation by the people in the shaping of the structures which govern the production, processing and distribution of their needs for material survival, might not these same repressive structures doom them to abject poverty and degradation?

It goes without saying, then, that an effective strategy for development should not only incorporate action programmes to protect the traditional civil rights of peoples, but should, above all, seek to alter the structures of power, of economic benefits and of institutions which deprive them of their human rights. This new strategy would call not only for an understanding of human rights violations as such, but of the systematic causes of such violations. It would be linked to action programmes aimed at the organization and mobilization of the poor in these countries for self-reliant development. Under this theory, mobilization and organization provide the most effective means whereby the poor are enabled to marshal resources to protect their rights and assert their interests in their dealings with people in power — e.g. landlords, creditors, employers, government officials.

Cases abound in our region to support this theory. One case study in the Philippines, for example, has to do with 'Kagawasan' groups, who have lived for many years in 'Kagawasan', technically as 'squatters', on government lands designated as 'forest reserves'. They were threatened with eviction when government officials in Manila agreed to lease large portions of these lands to pulp and timber businesses. They became mobilized for collective action when they learned that, under the relevant law, the Minister in charge of forest reserves had discretion to decide whether to lease these lands (and to whom), and then they learned that there were procedures available to them to request ministry officials to recognize their needs for possession of the lands and exercise discretion to lease to them rather than to the outside industries. They used petitions, deputations and demonstrations and similar means to persuade officials with discretionary authority to recognize the superior justice of their claims. The need to establish each family's claim to specific lands led to development of a group-managed system to survey the area and record the names of responsible possessors of designated tracts. This effort led to awareness of the superiority of these group structures over government courts for purposes of resolving other intra-community conflicts. As they gained security in land tenure and as they began to pay taxes, the Kagawasan groups (often successfully) made other demands for health care facilities, paramedical training courses for local people sponsored by the group and schools for their children.

Crucial to the mobilization of the Kagawasan movement in the Philippines was popular appreciation of the fact that there were, indeed, laws which could be used to redress popular grievances — e.g.

laws on employment relationships, laws on land distribution, laws creating other rights or entitlements. This knowledge not only helped the group decide on a course of action to address a shared problem, but it helped to overcome apathy grounded in the belief that official law was always on the oppressors' side and that reprisal might be expected from government. In a variety of ways, local officials and hostile private groups attempted to immobilize or co-opt the organization. Local police harassed members of the group. However, the people soon began to learn that a great many of the laws which affected allocation of basic resources (such as provision of health care or agricultural services) were laws that delegated discretion — and that it was possible to question officials about how and why they were failing to interpret and administer laws in ways which would better serve local interests.

Obviously, legal resources can help a group respond to these measures. The knowledge that the hostile action attempted is, itself, illegal not only helps people determine to resist it, but that knowledge also helps them seek ways to use laws as their weapon against adversaries. Members of the Kagawasan group learned that policemen who commit crimes can be held criminally and civilly liable, and that citizens, themselves, have powers to arrest law breakers. Armed with this knowledge, they arrested policemen who committed criminal acts in their presence and brought them before the courts. Knowledge of law, coupled with belief in the capacity of communities to use it to express principles for the collective good, helped to liberate them from fears of abuse of law and the cynicism that nothing can be done about it. As the Kagawasan report says: 'the effect of this process (of learning how to use law to resist illegal harassment) was sometimes awe-inspiring and not a little frightening. Once people were aware of the moral and legal righteousness of a demand they would develop methods to obtain them. As (this) activity progressed, their understanding and use of the law grew more and more sophisticated.' (Institute of Philippine Culture: *Law in the Mobilization and Organization of the Rural Poor for Self-Reliant Development*, 1979).

The lesson in this, as well as in many other documented cases in several countries in Asia is that non-traditional forms of conflict solution and political participation are the measures that, in the end, prove effective in achieving gains for the rural poor.

The legal disadvantages of the poor are not only in their ignorance of the law and of their rights, but also in their fear of the legal process and their lack of participation in the formulation of

legislation and regulations which affect them. That unfavourable position can only be corrected through their organization and participation in the political process. Participation, as the Bangkok (ESCAP) Conference puts it, must be part of a more general process of conscientization — e.g. the process by which people are made aware of the casual role in norms and structures in the creation of 'problems' relating to poverty, inequity, lack of access, etc. In this way, understanding and participative action necessarily grow together.

It is clear therefore that law plays an important role in human rights and development in the rural areas of South East Asia. At the same time, it must be mentioned that traditional legal aid services are no longer adequate to serve their needs. In reforming law, the key role should be played by the masses themselves. People's participation is absolutely indispensable, for without it law would merely continue to reflect the interest of the powerful groups which have played the major part in formulating it.

People's participation, however, is not easy to develop. For it to grow, access to law and legal resources must be improved; the roles of intermediary groups and organizations, either in administering or implementing the law, must be changed from the existing narrow focus on business, individual or state interests, to a broader one serving the collective interests of the groups such as urban slum dwellers, landless workers, small fishermen, etc.

Again, law must not exist for 'law and order' alone; 'law and order' sometimes serves to perpetuate existing injustices, in the manner that Schiller had talked about 'the peace and order of the graveyard' in *Don Carlos*. To repeat, more importantly, it should work to enhance the capacity of the people to organize themselves in order to participate effectively in every process, including that of law making. National law must identify the weaker sections and their problems and contain special provisions for their advancement.

During the International Commission of Jurists Seminar in The Hague (May 1981), it was noted that most of the successful lawyers of today serve the interests of the affluent and powerful. In some cases they have sold out to dominant economic interests who have little concern for the rights of man. There is therefore a need for a new breed of lawyers who understand the true meaning of the legal profession as an institution dedicated to the establishment of justice in human relations.

The seminar in The Hague agreed that the task of the legal profession today is not only to provide legal aid but, in the context of the impoverishment of peoples in the Third World, to build up



their legal resources — e.g. the development of collective community knowledge and capacity to make use of the law. Towards this end, the lawyer will have to be

- (a) an advocate of collective demands and group interests, both in courts and in administrative, legislative and other institutions,
- (b) an educator helping to develop community awareness and knowledge of relevant laws and helping to train community para-professionals,
- (c) a critic of proposed or existing legislation and administrative actions which impinge on the human rights of impoverished groups,
- (d) a law reformer asserting claims for change in legislation and state structures, and
- (e) a jurist developing new jurisprudential concepts needed to realize the right of development.

Indeed, development and human rights should be given a wider perspective. It should meet both the material and non-material needs of the people. The central issue, i.e. development by whom and for whom, should be faced squarely. Only if this is done can development be seen as a liberating process, as the creation of the conditions for peoples, particularly those at present oppressed and marginal, to identify their own needs, mobilize their own resources and shape their future in their own terms.

# APPROACHES TO RURAL DEVELOPMENT AND THEIR IMPLICATIONS FOR HUMAN RIGHTS

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## Introduction

The relative impoverishment of rural people, as well as structural inequality within rural areas, characterize many developing countries. Despite the increase in income per capita by almost 3% a year in the past 25 years, about 40% of the population of developing countries are still living in absolute poverty, the majority of whom are in rural areas, with the greatest concentration in South Asia and in South East Asia.<sup>1</sup> Not only do rural people lack resources essential for an existence worthy of the dignity of man, but they also lack the possibility of participating in institutions which control these resources. Public investment in educational, health, information, transport, and agrarian services is low compared to the urban areas. Private persons or firms usually control land, employment, and credit for their self-interest. Discriminatory practices are frequent in local administration, law enforcement and adjudication.

Since the 1950s, various undertakings have been introduced, with a view to 'modernizing' socially and culturally the rural areas, to affectuating 'economic growth' and to 'integrating' rural economy into the 'world economic system'. With the ushering in of the 'Development Decade', there emerged, within the international organizations, a growing interest in rural development, in the adaptation of traditional skills, professions, and institutions for the purpose of 'development'.<sup>2</sup>

In spite of all the good will, however, the relative deprivation of the rural areas persists, often on a growing scale; and as a result of certain types of 'modernization' processes, cultural dependency on the Centre [developed countries] has increased in many countries.

In an attempt to reflect upon the problems of human rights and rural development, it might be useful to examine the existing approaches to rural development, especially among donor agencies (e.g. World Bank, USAID, and Dutch, Swedish and Canadian aid agencies), the UN system (e.g. ILO, FAO, UNESCO), non-

governmental bodies (e.g. Brandt Commission), and national development plans.

In this paper, three major existing approaches to rural development underlying the action of international agencies (Target Group Approach, Integrated Area Development Approach, and Local Institutional Approach) will be discussed briefly in order to explain UNESCO's action for rural development and underlying assumptions. Then the implications of this action for human rights will be examined.

### Major approaches to rural development

Since the 1970s, the narrow 'growth' oriented economic approach to development has been corrected and modified. A basic consensus exists as to the goals of rural development:

- (i) popular participation, as defined by the UN Commission for Social Development (1977) as 'mass sharing of benefits of development, mass contribution to development and mass involvement in the decision-making process of development as the basic ingredients'<sup>3</sup>;
- (ii) dissemination of knowledge and technology adapted to local needs;
- (iii) community development in which human dignity and fundamental rights are assured.<sup>4</sup>

Corollary to this modification of the definition of development, the choice of policy instruments has also changed. The former definition of development as a planned, deliberate, top-down process of social change guided by educated 'elites' operating through structures designed from imported western models, was questioned and gradually lost intellectual credibility. Instead, the idea of self-reliance and social change through self-help organizations came into existence.

Scepticism about modernization paradigms and growth strategies, and disillusioned assessments of development experience led to a fragmentation of approaches to development. Piecemeal measures must be invented in specific contexts and according to particular needs of the communities concerned. Today, the action of the international agencies for development is more or less supported by one, or a combination of the following three approaches:

#### (a) *Target Group Approach*

This approach consists of identifying specific groups of people who can benefit from any rural development programme and there-

fore gives priority to the analysis of mechanisms of benefit-flow. One of the international agencies which emphasise this approach is the World Bank. It attempts to ensure accrued benefits flow to the 'rural poor'.<sup>5</sup>

'Rural Development is a strategy designed to improve the economic and social life of a specific group of people, the rural poor. It involves extending the benefits of development to the poorest among those who seek a livelihood in the rural areas. The group includes small scale farmers, tenants and the landless.'<sup>6</sup>

#### (b) *Integrated Area Development Approach*

Taking into account that rural development is a multi-dimensional process, this approach lays emphasis on the integration of different programmes implemented in a relatively small area. The capacity of development institutions operating at different levels is considered as more important than the target groups. FAO and UNESCO adopted this integrated development approach as its main operational strategy. At the Inter-regional Symposium on Integrated Rural Development organized by the FAO in 1978, the major elements of which this approach was composed, were defined as follows:

- area development;
- devolution of decision-making authority and decentralization of bureaucracy; and
- principle of self-reliance.<sup>7</sup>

The encouragement of those socio-economic institutions for intensive planning and implementation of development policy constitutes the operational tool of this approach.

#### (c) *Local Institutional Approach*

This approach stresses the importance of the delivery system at the grass-roots level, so that the output of rural development could flow in the desired direction. Through local institutions such as professional organizations, educational institutions and administrative channels, this approach aims at:

- increasing the agricultural productivity;
- correcting the distribution of income and other benefits of development;

- assuring welfare services such as health, education, employment, nutrition and other social amenities.

This approach, which in a way is a combination of the previous two, is more comprehensive in its goals allowing planning for long-term benefits through overall change in the institutions. The local institutional approach has become increasingly the underlying conception of national development policies for rural development, as well as the subject of sociological inquiries.<sup>8</sup>

### UNESCO's action for rural development

The underlying principles of UNESCO's action in the field of rural development consists of promoting participation by rural populations in their own development, which would enable: '(i) conception and implementation of an integrated, diversified rural development, in the service of the populations; and (ii) the linking of these populations' own efforts with those of the governments.' To this effect, action takes place at the levels of studies, planning, project implementation, evaluation and training. 'Integrated area development approach' is put forward in most of UNESCO's activities for rural development.

UNESCO is concerned particularly with the educational aspects of rural development. These activities include: (a) encouraging educational innovations in the rural sector; (b) collaboration with other international agencies such as UNDP, IBRD, FAO and ILO in the preparation of rural development projects; (c) the study and analysis of rural development.

#### (a) *Educational innovation*

In the 1950s, a multipurpose type of adult education was developed in the rural communities. Since 1965, the functional literacy programme has benefited rural areas. Under its 'education for rural development' programme,<sup>9</sup> UNESCO launched a training project for agricultural specialists, technicians, and instructors, as well as primary school teachers for rural areas. Activities designed to bring about equal access to education, especially for girls and women, have largely concentrated on rural areas.<sup>10</sup>

UNESCO attempts also to promote regional co-operation in the field of education for rural development. Technical co-operation between developing countries in the education and training of personnel in rural development is promoted through material and technical support for the regional, professional associations of agricultural

colleges and universities in Asia, Africa, Latin America and the Arab States. Training activities, including seminars, workshops and post-graduate courses of a regional character are undertaken. With a view to fostering the exchange of information and experience at the international and regional levels, emphasis was laid on the setting up of an international and regional information network.

(b) *Collaboration with other international agencies*

The studies and observations made on the occasion of the completion of the First Development Decade brought to light the insufficiency of economic growth as the sole objective of development and the need in future to adopt measures aiming at social changes, by attaching greater importance to the distribution of income and to the living standards of the most deprived with respect to nutrition, health, living quarters, education and culture. For this reason, the agencies of the UN system now consider that rural development programmes should have a more integrated character and are endeavouring to co-operate more closely in this field. FAO, UNESCO and ILO have been co-operating since 1970 in the field of agricultural education and in 1974 the administrative Committee on Co-ordinating decided to undertake the inter-agency planning of rural development activities by setting up an Inter-Agency Task Force on Rural Development which has met regularly since that date. Collaboration with FAO and ILO in the field of agricultural education and training has been ensured through regular meetings of FAO/UNESCO/ILO Inter-Secretariat Working Group on Agricultural Education, Training and Extension. The joint annual publication of FAO/UNESCO/ILO, *Training for Agricultural and Rural Development* was prepared for 1979 and 1980 as a result of the co-operation of these agencies.

(c) *Studies and analysis of rural development*

Other than the above operational activities, UNESCO undertakes research on the conditions governing development of rural communities. It goes without saying that such research should be an integral part of any rural development project, so that its progress may be evaluated continuously.

If UNESCO aims its activities in rural development through popular participation, what are the conditions enabling such participation? If education is crucial in realizing development, which type of education? What kind of information and in terms of which

values? What role do traditions have to play? What are the socio-economic and political conditions allowing responsible and effective participation? UNESCO's social science programme for rural development attempts to respond to these questions at two levels: attitudes and values, and structural realities.

In order to formulate recommendations to be considered for contribution to the World Conference on Agrarian Reform and Rural Development (WCARRD), organized by the FAO in 1979 in Rome, UNESCO held an expert meeting on the Institutional Problems of Participation in the Strategies of Integrated Rural Development (Lima, 1978). Methodological and research issues, as well as the question of policy framework for popular participation in integrated rural development were discussed.<sup>11</sup>

As a contribution to the Programme of Action adopted at WCARRD, a subregional, comparative research project was implemented in all countries in the Caribbean. This research aimed at:

- identifying the principal socio-cultural characteristics of the production and marketing of food crops by small farmers, which could contribute to increasing productivity;
- encouraging the taking into account of these socio-cultural factors in national policy, in order to increase food production and improve the level of life of small farmers;
- contributing to the success of such subregional programmes as the Caribbean Food Plan;
- reinforcing co-operation among research specialists and governmental authorities responsible for policy and planning in this field.

The results of this comparative research were presented at a subregional expert meeting 'to consider the socio-cultural basis for developing innovative policies and programmes relevant to food production and marketing by small farmers in Latin America and Caribbean'. (Bridgetown, 1981) At this meeting, the following programme areas were identified as most important for further research:

- land tenure and land reform;
- mobilization;
- improvement, up-grading and integration of institutional services;
- labour and organization of work, 'rationalization';
- improving productive techniques and access to technology;

- capital for marketing services (co-operatives, etc.);
- improvement of farm administration and management;
- up-grading education and training;
- improvement of communication and language problems;
- re-orientation of values and customs (for example, the manipulation aspect of the values of imported food vs. local food).

This subregional research design will be applied also to Africa and Asia during 1981-2.

### **Approaches to rural development and their implications for human rights**

The above overview of various approaches to rural development and their evolution might have indicated that the 'modes' in development theories change rapidly, and that there are particular perceptions of the 'problems' in these approaches. The overwhelmingly economist perceptions and strategies of the 1950s and 1960s were substituted by institutional and value sociologists' perceptions in the 1970s which are based on a 'holistic' conception of society and the global nature of social transformation. The latter type of theories, especially the 'integrated rural development approach', attempts to formulate measures providing for two sets of supposedly inter-dependent objectives: equitable access to goods and services which enable people to realize some optimal level of nutrition, health service, habitat, education and employment; and self-reliant, popular participation.

It is undeniable that these two sets of goals are in themselves valid: they open up a wide and unexplored field of research as to the means of implementation. It should be pointed out, however, that this approach is a conceptual model which has certain disadvantages when it comes to practical application. First of all, as a conceptual model concerning 'goals', this approach often does not suggest concrete and workable procedures and institutions for realization. Secondly, the very concepts utilized in this approach, such as 'community', 'needs', 'values' (see note 11 concerning policy framework for integrated rural development) are not practical and ignore political and conscious dimensions of human behaviour. They tend to underestimate the legal and professional structure of society as a means of reform. Particularly, this approach tends to minimize direct concerns for the promotion of human rights as independent values, as human rights are considered as dependent on socio-



economic structure: the importance of legal defense of the rights of peasants is rather neglected.

In so far as the model fails to provide operative procedures, social accountability of the programme will be affected; inattention to legislative and judicial mechanisms and their use might, in reality, increase the unaccountability of the executive. This might, in certain cases, legitimize bureaucratic behaviour and 'management' orientation of the administrative branch of government in social change. In other words, holistic and mechanical sociology which ignores legal and conscious dimensions in social change (because of its hope for overall social transformation), might contribute to the growth of governmental institutions without real popular participation. By legitimizing a state fostered modernization, it might reinforce the discrimination of rural areas, as the political leaders tend to obtain confidence of educated, urban centres. Appropriate institutions for 'integrated rural development' will not appear miraculously and bureaucrats and politicians will not on their own initiative educate themselves. Theories of 'development' should not be in themselves a system of exploitation. The fight for rural development must start with awakening of the consciousness of the people of their own rights and of the need to organize themselves. This, alone will help awaken the consciousness of bureaucrats and politicians. Rather than wait for the creation of perfect institutions and institutional services given from above, the existing institutional and legal means should be exploited for the assertion of human rights of rural people.

### **Human rights problems and rural development**

It is clear that the rural people's struggle for development is identical with the fight for human rights. The assertion of their right to the means of production, their right to information and education and, above all, their right to know their own rights seems to be essential for combating discrimination. The assertion of human rights through existing legal and administrative structures at least has the advantage of reality and immediacy in the fight as opposed to endlessly waiting for global transformation of institutions.

In order to discuss human rights in the context of rural development two types of human rights seem to be particularly relevant: the right to freedom of association with others, including the right to form and join trade unions for the protection of their interests; and the right to property. They need reconsideration, because these rights are not necessarily formulated in a way favorable to rural development.

(a) *Right to freedom of association*

The unquestionable importance of this right is manifested by the fact that the right to freedom of association is included in both Covenants (Article 8 of the International Covenants on socioeconomic and cultural rights, and Article 22 of the International Covenants on civil and political rights).<sup>12</sup> The ILO Convention no. 87 of 9 July 1948 is the major international instrument which protects this right.

It should be pointed out, however, that the right to freedom of association is conceived mainly in terms of worker-employer relationships. The question arises as to whether and to what extent the provisions of these instruments are adapted to the context of rural development. In South East Asia, as in most rural areas, worker-employer relationship is not prevalent. For example, it is questionable whether this international protection really corresponds to the particular needs of small land-holding farmers whose claims are often directed toward either public power or buyers of their products, and not to employers. It is for this reason that the ILO Convention 141<sup>13</sup> was elaborated to encourage association of rural workers with specific concerns of land reform and rural development.

(b) *Right to property*

The ambiguous nature of the right to property is shown by the fact that this right was included in the Universal Declaration of Human Rights (Article 17), but not mentioned at all in the two International Covenants of 1966. The right to property appears in the International Convention on the Elimination of all Forms of Racial Discrimination (Article 5 d(v)) as a civil right, but not as an economic right (at first glance curious, but in fact reasonable). All this indicates that the nature of property rights as a human right is disputed and remains ambiguous.

It is to be questioned whether the right to property is defined and formulated in national laws as a human right. It is also to be examined to what extent this right as it is formulated by national laws could be implemented for the benefit of collectivities. Furthermore, it should be questioned as to what extent agrarian reform is possible without depriving some of the right to property.

The answers to these questions differ according to the context of each country. The specific national character, however, should not prevent us from examining the right to property in the context of rural development. In this connection, the provisions under Article

14 of the African Charter on Human and People's Rights might give useful insight:

'The right to property shall be guaranteed. It may only be encroached upon in the interest of public need or in the general interest of the community and in accordance with the provisions of appropriate laws.'

## NOTES

- 1) *World Development* by the International Bank for Reconstruction and Development, Washington D.C., 1978.
- 2) From the policies of the 1950s and 1960s, lessons were drawn that the 'growth'-oriented approach to development created widening gaps between the rich and the poor mainly because the poor always had less access to the productive assets needed to generate income. In the 1970s, policy instruments and planning methods oriented more toward 'poverty' emerged. It is significant that the World Bank, for example, discovered the existence of the 'rural poor', identified as small farmers, landless labourers, sub-marginal farmers, and semi-skilled rural underemployed.
- 3) *Popular Participation and its Practical Implications for Development*, UN Commission for Social Development.
- 4) This would be in accordance with the approach adopted in the "Declaration on Social Progress and Development" proclaimed by the General Assembly of the United Nations on 11 December 1969 (Resolution 2542 (XXIV)). Article 2 states:

Social progress and development shall be founded on respect for the dignity and value of the human person and shall ensure the promotion of human rights and social justice, which required:

  - (a) The immediate and final elimination of all forms of inequality, exploitation of peoples and individuals, colonialism and racism, including nazism and *apartheid* and all other policies and ideologies opposed to the purposes and principles of the United Nations;
  - (b) The recognition and effective implementation of civil and political rights as well as of economic, social and cultural rights without any discrimination.
- 5) See note (2).
- 6) Rural Development Sector Policy (1975), Washington D.C.: IBR, p. 1.
- 7) Report on the FAO/SIDA/SDE Inter-Regional Symposium on Integrated Rural Development (1978), FAO, Rome, p. 22.
- 8) See for example studies by Akin Rabibhadana *Problems in Rural Development Work: the Case of the MaeKong Integrated Rural Development Project* (Thai Khadi Research Institute, Thammasat University paper no. 5, 1959), *Self-help Organization in Rural Thailand: the Question of Appropriate Policy Inputs* [manuscript of paper to be published in *Too Rapid Rural Development: Perception and Perspectives from South East Asia*, edited by Colin MacAndrew and Chia Lin Sien, Ohio University Press (in press)], *How to Work with Farmers: a Manual for Field Workers* (Franz G. Heim, Akin Rabibhadana, Chirmasak Pinthong, 1980).
- 9) *Education in a Rural Environment*, UNESCO, 1974; *The Continuation of Education to Rural Development*, June 1973, ED. 76/WS. 65, UNESCO, Paris.
- 10) Two case-studies have been completed in the field of education for rural development: (i) Formal and non-formal education in rural development (Karnataka, India): (ii) Facilities, needs and opportunities for scientific knowledge for rural women (Thailand). Others concerning various aspects of education for rural development

are nearing completion: (a) Strategies for rural development with particular reference to the role of education; (b) Co-ordination of formal and non-formal education as a means of enhancing the involvement of women and youth in rural development; and (c) Increasing the relevance of education to employment. Operational seminars on the role of education in integrated rural development have been completed so far in Cuba, Kenya, Bangladesh and Guinea. They focused on some of the ongoing rural development programmes with an intersectoral and multi-level approach. The Organization contributed to the promotion of national expertise, especially in regard to the planning and the formulation of appropriate strategies for implementing integrated rural development policies. Operational seminars at country level has improved collaboration with the United Nations system. UNESCO participated in three fact-finding exploratory missions in Bolivia, Lesotho and Liberia and in the cross-organizational programme analysis (COPA) on rural development. This was further strengthened through involvement during the preparation and implementation of the 1979 World Conference on Agrarian Reform and Rural Development and participation in conferences and seminars organized by FAO and other agencies in follow-up actions of the WCARRD.

- 11) The following policy framework was considered necessary:
  - a. The community should define its own needs.
  - b. These needs should be ordered or ranked by the community itself.
  - c. The community should be organized as a function of these expressed needs.
  - d. There should be coordination of 'support institutions' as a function of these needs.
  - e. Action or activities of support institutions and agencies in rural development should be integrated and dialogue undertaken with the organized populations.
  - f. There should be active participation of the organized communities at all phases of the process.
  - g. There should be as much transfer as possible of responsibilities to these organizations.
  - h. There must be an integrated concept of rural life.
  - i. There must be an integrated concept of planning.
  - j. Bureaucrats need to be educated in their duties and the population in their rights and privileges.
  - k. The use of mass communication and the rural media should be encouraged.
  - l. The policy objective should be the development of the weaker or poorer sections.
  - m. The concept of a target group simply in per capita terms should be rejected in favour of a more holistic concern with the weaker sections, based on political, social economic and cultural criteria.
  - n. Planning should be done by the villagers themselves, and the indigenous reservoir of traditional knowledge should be tapped.
  - o. Rural development at the local level should be articulated with the other levels (regional and national) through the mechanism of generating popular participation. In terms of functions, what cannot be done at one level should be done at another.
  - p. There should be studies on the alienation of the rural population, to identify the extent to which their indigenous cultures have been destroyed or retained and to show how this cultural heritage could be used as the basis for organizing popular participation and rural development.
  - q. The role of the state depends on its institutional character and its commitment to rural development. Given the fact that the state is usually in the

hands of the dominating classes, with interests directly opposed to those of the rural poor, the state may, in fact, have only a limited or even negative role in promoting meaningful popular participation in integrated rural development.

r. The success of the institutional strategies depends on the participation of the rural people themselves in devising and implementing these strategies.

- 12) The right to freedom of association is one of the only two rights to appear in both Covenants, the other right being the respect for liberty of parents to choose types of education for their own children (Article 13, para. 3, of the International Covenant on socio-economic and cultural rights, and Article 18, para. 4, of the International Covenant on civil and political rights).
- 13) Convention concerning Organization of Rural Workers and their Role in Economic and Social Development adopted on 4 June 1975, cited as the Rural Workers' Organizations Convention, 1975.

## SUMMARY OF DISCUSSION IN COMMITTEE IV

The first paper presented was by Professor Espiritu. According to him after the Second World War there began a movement of governments taking the initiative in the field of development. In the 1960s however the effectiveness of this development was called into question. The 1970s saw a debate on the issue of how development should proceed. The thrust of this debate was the basic needs approach. However, the current issues are now focused upon how basic needs of the people can be achieved and, most importantly, whether, and if so how, underlying structures should change.

Corporations produce goods for the affluent — not to satisfy basic needs — and yet they are assisted and promoted by governments. Moreover there is a mutual alliance between governments and trans-national corporations (TNCs). This is expressed in the perceived need by governments for investment which provides employment and increases GNP, while TNCs need government support to provide a stable environment. This in turn leads to an urban industrial bias against rural agricultural interests.

Education of the rural poor on their legal rights is a long process, but organization is the key to progress in solving their problems. Efforts in this direction will not go unrewarded but there must be people willing to take risks.

Professor Espiritu gave an example of some sugar cane workers in the Phillipines who were recruited to work away from their homes and families for six months of the year. They lived in squalor and at the end of their contract 40% of them were still indebted to their recruiter.

In the discussion on Professor Espiritu's paper, a question was raised as to whether law school courses should include development of social conscience in the students. Perhaps some kind of aptitude test should be imposed on the students to discover their attitudes.

It was suggested that students should have some 'clinical' experience. In the Phillipines the situation is that medical students must have six months clinical experience in a village setting, but not so law students.

The examples Professor Espiritu gave indicate that it is easier to mobilize people who have a common interest, and when they have

an intermediary or even a catalyst. Therefore, can people be motivated into organizing themselves to protect a pressing and urgent need, and to guard against threats?

The issue of participation also includes the question: by whom? Professor Espiritu responded to this by saying that the subject under discussion are the people and how they can be given a voice in decision-making processes. The people, he said, should be subjects rather than objects of history. They should be enabled to participate because they are entitled to it. All people, he said, should have a right to participate in the decision-making processes that affect their lives and fortunes. However, it may happen that the poor are precisely marginalized because they are not aware of their rights. Hence the need for conscientization for political awareness, to enable them to understand the situation, in particular why they are bypassed in the process of development. Assistance then becomes necessary and desirable — from concerned professionals, students, politicians and so on. Indeed, legal resources should be provided and directed towards enabling them to participate meaningfully.

It was also asked whether political and development issues are necessarily identical to human rights issues. In Japan, it was claimed, the economic revolution took place without any assurances or assumptions about participation.

In reply it was said that trade unions only flourished once the law in Japan was changed to allow free association just after the war. The gains, even if only in terms of better wages and conditions, were possible only because the right to freedom of association was established.

In her paper, Hiroko Yamane indicated that the UNESCO Human Rights Division was involved in education and in looking at the underlying causes of human rights violations. UNESCO has a programme in which people are sent into the field for the purpose of raising consciousness about development issues. Ms. Yamane also spoke of the desirability of reformulating the right of association and right to property to take account of the situation of the rural poor.

Early in the discussion it was noted that traditional human rights, for example, rights to education, free press, free speech, had been assumed as given by the paper writer. Ms. Yamane replied: 'Yes, for example the right to education is fundamental to understanding.'

One of the major issues is how to overcome the barrier of ignorance on the part of the rural poor about their rights, including

the right to organize. To make matters worse the poor do not know they are poor.

The recommendations contained in the report of the CAP/ESCAP June 1981 Seminar were discussed and were considered to be particularly appropriate. Also discussed were the promotion of ILO Convention 141 and the whole question of what international institutions are required to do to reach the rural poor.

On the second day of the Committee discussion Chairman Cicero Calderon referred to the work that the ILO was doing with ILO Convention 141 and accompanying recommendation 149 (see Appendix I and Appendix II). The ILO Secretariat has a special section dealing with rural institutions. It is engaged in promoting adherence and implementation of ILO Convention 141 and Recommendation 149 on organization of rural workers.

The basic convention on freedom of association is ILO Convention 87 and there is the complimentary ILO convention 98 on the right to organize and collective bargaining. However, these conventions may not be appropriate to the rural situation where there may not be an employer/employee relationship eg. landless tenant farmers, sharefarmers, etc.

A practical example of the difficulties which are encountered is found in the Thai situation where, over a period of two years or so, about 30 leaders of farmer organizations were murdered.

In the discussions leading to the formulation of recommendations the following matters were also discussed.

- the suggestion that ILO Convention 141 and recommendation 149 be appended to the ICJ/CAP report;
- UNESCO should perhaps cease to be neutral in its educative role in raising consciousness;
- a difference of opinion concerning the use and meaning of the words 'education' and 'conscientization';
- interference in the right of association by governments in the name of national security and order;
- the necessity always to be on guard concerning government initiatives in organizing rural workers;
- where people suffer injustice there is a choice: either have faith in legitimate legal processes or use the non-traditional means such as protests and demonstrations;
- if countries in the region were able to resolve their own problems then the role of international NGOs would be rendered unnecessary.



COMMITTEE V — SOCIAL  
AND LEGAL SERVICES

DEVELOPMENTAL LEGAL AID IN RURAL ASEAN:  
PROBLEMS AND PROSPECTS

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I

Why discuss the problems and prospects of legal aid for the rural poor in ASEAN?<sup>1</sup>

The poor of rural ASEAN — and in a sense the poor are rural ASEAN — need food and water, medicines and sanitation, clothes and houses, education and information. ASEAN governments are hard put to meet these needs: despite government efforts, unemployment and underemployment, poverty and inequality, hunger, disease and illiteracy remain rampant in the region.<sup>2</sup> Why should scarce resources be diverted from meeting these needs to provide legal aid?

The answer is that the basic needs of the rural poor are more than merely physical. The rural poor hunger besides for justice, for respect for their dignity, and for control over their lives. Listen to Salud Algabre, a tenant farmer's wife, a mother of five, explain why she took part in an abortive uprising in 1935 in Southern Luzon in the Philippines:<sup>3</sup>

Q. When did you begin to consider the government as unjust to the people? — A. 1930.

Q. Why? — A. Because of the abuses against the people. The needs of the labourers were ignored. The leaders paid no attention to the people.

Q. As tenants were you abused? — A. When we worked the land, we were cheated. The terms on the estate were 50-50. If the tenants harvested 1,000 tons, 500 were to go to the propietario and 500 to the farmers. But we never got the agreed 50%. We would get a mere 25%, sometimes even less.

Q. Did you share out the 25%? — A. We divided it among ourselves. But even then it amounted to less. They got all the disbursements back. All the expenses in planting were borne by us, even the land tax. We were very poor.

Q. Then the basic problem was one of poverty or having enough to live? — A. Having enough, *but without abuses*.

Q. It was poverty, then, and abuses which caused your discontent? — A. No, it was more. There was a root cause behind everything. Nothing could solve our problem except independence, as the United States had promised. *Freedom was the solution . . .* There was no other answer to the abuses and the poverty. With independence the leaders would cease to be powerful. Instead, *it would be the people who were powerful. The people would have their freedom*. We would have our own lands; they would no longer be the monopoly of the proprietarios and of the government officials. As it was, we had nothing.

Hear the tenant farmers who took part in another peasant revolt twenty years later in Central Luzon:<sup>4</sup>

Even if we got nothing, that's not important. *What's important is that we had to fight back*. And we fought so well that the big people and the government will never forget us again.

We showed them [the landlords and government] *we weren't slaves. We didn't lie down like whimpering dogs when they started to whip us*. We stood up to them and fought for what was rightfully ours.

No strike, no demonstration, no rebellion fails. *Protest against injustice always succeeds*.

To the extent that legal aid can help the rural poor gain justice and greater control over their lives, it does meet a basic need.

## II

But is legal aid relevant to human rights and to development?

No one doubts that legal aid is relevant to legal rights. But not all human rights are legal rights. Some are, in fact, denied by law, for example, the workers' right to strike.<sup>5</sup> Since legal aid must operate within the law, how can it enforce human rights that are denied by the law itself? Does it make sense to talk about gaining justice for the poor if the justice that is gained is not worth having?<sup>6</sup>

Besides, are human rights themselves relevant to development? Of course, no ASEAN government openly repudiates human rights. But judging from their acts and policies, all are disposed at some time or other to sacrifice some human rights in the name of development. For example: all ASEAN governments are committed to development, but none has ratified or adhered to the International Covenant on Civil and Political Rights and its Optional Protocol or to Protocol II of the Geneva Convention. And all ASEAN governments are authoritarian in varying degrees. How useful is it then to discuss legal aid in rural ASEAN?

### III

These questions cannot be ignored. Like doubts about the power of non-violence to overcome tyranny, misgivings about the reference of legal aid to human rights and to development have some basis.

This is particularly true of legal aid of the traditional type: the rendering of free legal services to the poor in their private disputes like child support, tenancy sharing, usury, common crimes, and the like. These services are not, of course, to be scoffed at. For the abandoned mother, the tenant cheated of his share of the crop, the man, woman or child wrongly charged with crime, legal aid can spell the difference between life and death, freedom and slavery. But where the law itself violates human rights traditional legal aid can do little.

The state may be generous in recognizing rights, but it is seldom generous in providing effective remedies. . . . As long as legal aid limits its concern to private disputes, few problems arise; but as the vindication of the rights of the poor becomes inevitably more aggressive and requires a challenge to government policy, the operational costs to the state may come to outweigh the legitimizing benefits. The state's response may then be to eliminate such offending activities or to rein in those attorneys who have gone too far. . . .<sup>7</sup>

Moreover, traditional legal aid is actor not structure oriented. It assumes that the law is just and that injustice results from human greed and weakness that violate the law. This assumption does not imply that legal aid lawyers are blind to violations of human rights caused by unjust social structures: better than most citizens, they know that the law itself is often unjust; but as legal aid lawyers, they

see their function simply as upholding the law, not changing the law or society, a task they view as properly the function of the legislator. Since development is social change, often radical and rapid, traditional legal aid is of limited value to development.

To ensure accelerated development two general conditions are necessary: first, *far-reaching internal changes of a social, political and institutional character in the developing countries*, and second, significant changes in the world economic order.<sup>8</sup>

Traditional legal aid is, in fact, the lawyer's way of giving alms to the poor. Like alms, which provide temporary relief to the poor but do not touch the social structures that keep the poor poor, traditional legal aid redresses particular instances of injustice but does not fundamentally change the structures that generate and sustain injustice. And like alms, traditional legal aid carries within it the germ of dependence that can prevent those it serves from evolving into self-reliant, inner directed, creative and responsible persons who think for themselves and act on their own initiative. Unless this danger is guarded against, traditional legal aid can retard rather than promote development: for above all else, development is human development.

These weaknesses also afflict the current 'access-to-justice' movement into which traditional legal aid is evolving. The movement's thrust is laudable: to create new, informal, inexpensive and faster ways of resolving legal conflicts. But this applies primarily to private disputes, not to public disputes that question state policy or threaten social structures. The movement involves a procedural rather than substantive approach to the problems of the poor, an approach that implies that social structures are fundamentally sound and require only some improvement, not radical change. That may well be true of developed countries; by definition, it is not true of developing nations. And even in developed countries, the fear has been expressed that:

'... the movement will succeed only in securing those reforms which will increase the legitimacy of the current system, and fail to secure those that will make it really change.'<sup>9</sup>

#### IV

So development requires a different type of legal aid, one that will not supplant traditional legal aid but supplement it, concentrating

on public rather than private issues, intent on changing instead of merely upholding existing law and social structures, particularly the distribution of power within society. As Adnan Buyong Nasution, director of the Lembaga Bantuan Hukum (Institute of Legal Aid) of Indonesia well put it:

‘... legal aid at the moment requires reorientation: legal aid has so far only been directed at the manifest needs of the poor while largely ignoring their latent needs, which in fact often are of more fundamental importance....’

The most important problem that emerges is obviously the unequal control over political and economic resources, together with a monolithic political and economic structure. If this structure is left unchanged, it is useless to talk about a more equal distribution of the fruits of development; about democracy; and about basic human rights. Whatever its outcome, development will remain remote to the poor who are alienated from the decision-making process, the implementation of the policies, and the distribution of the benefits of development.

What can legal aid do to bring about change? This is perhaps the most fundamental question that has to be answered at this stage.<sup>10</sup>

This new type of legal aid is needed because development is more than just feeding, clothing, curing, teaching and housing people. Many prisons do as much. Development is above all the people deciding what food, clothes, medical care, education and housing they need and how to provide them.

The right of the people to make these decisions is explicitly recognized in Articles 1 and 7 of the Charter of Economic Rights and Duties of States.<sup>11</sup>

#### Article 1

Every State has the sovereign and inalienable right to choose its economic system as well as its political, social and cultural systems *in accordance with the will of its people*, without outside interference, coercion or threat in any form whatsoever. [emphasis added]

#### Article 7

Every State has the primary responsibility to promote the economic, social and cultural development of its

people. To this end, each State has the right and the responsibility to choose its means and goals of development, to fully mobilize and use its resources, to implement progressive economic and social reforms and *to ensure the full participation of its people in the process and benefits of development*. . . . [emphasis added]

This right includes whatever is necessary for its effective exercise. This means that the people have the right at least:

- To enjoy the fundamental freedoms set out in the Universal Declaration of Human Rights and its implementing covenants, because without these freedoms, the people could not make an informed choice of economic, political, social and cultural systems;
- To change the existing structures of, and the distribution of power in their societies, because these effectively prevent the people from fully sharing in the process and benefits of development.

All ASEAN governments voted for the Charter and are therefore bound, in law, to recognize these rights, no matter how often, in practice, they may violate them.

Moreover, since the existing social structures and distribution of power in ASEAN countries are economic and social consequences of colonialism, neo-colonialism and foreign domination, ASEAN governments are also legally bound to change them. Article 16, paragraph 1 of the Charter is explicit:

#### Article 16

1. It is the right and duty of all States, individually and collectively, to eliminate *colonialism*, apartheid, racial discrimination, *neo-colonialism* and all forms of *foreign aggression, occupation and domination, and the economic and social consequences thereof*, as a prerequisite for development. . . . [emphasis added].

In ASEAN countries and, indeed, in all developing countries, then, a new type of legal aid would rest on firm legal ground: the right of the people to development.

## V

Efforts to practise this new type of legal aid, which for want of a better name I shall call developmental legal aid, have begun in ASEAN countries.<sup>12</sup> Lawyers who had been imprisoned or had practised traditional legal aid became convinced that, under conditions in their country, something more was needed. If the rights of the poor and the oppressed were to be vindicated, and just and humane development achieved, the job of developmental legal aid had to be done. But no one else would do it. So in a sense the practice of developmental legal aid was 'forced' on them.

They do not of course, consider developmental legal aid as a panacea, nor view themselves as saviours or messiahs.<sup>13</sup> They know they are merely groping towards a more relevant and effective way of using law and helping the people use law to attain the people's aspirations. They are aware that, as lawyers, they must act with and within the law, a law that imposes severe limits on what they can do and how they can do it. And, although they know, as Radbruch put it, that 'law cannot originate in law alone . . . There is an original creation of law, a first generation of law out of factuality, law making by law breaking, new legal ground on congealed revolutionary lava',<sup>14</sup> as citizens they are dismayed by the tremendous disparity between the armed strength of organized government and the unarmed weakness of unorganized people, and as lawyers they recoil instinctively from the bloodshed and destruction that violent revolution would cause even if it succeeded.

To resolve this dilemma, developmental legal aid lawyers have evolved a two part strategy. One part is to confront the regime with the detrimental effects on people of its policies and programmes, with the inconsistencies between its policies and actuations, on the one hand, and the aims and principles it professes or standards that are internationally accepted, on the other, and in appropriate cases, even with its own illegitimacy.

This strategy is based on two beliefs:

- That men in government, no matter how oppressive they may appear to be, are not all evil; like all men, including legal aid lawyers themselves and the poor whom they serve, they are a mixture of good and bad, so that appeals to conscience are not predestined to fail.
- That governments seek the respect of other governments and military and economic aid from industrialized states, to obtain which they must maintain an international

appearance of legitimacy and respectability, and this need can be exploited to dispose governments to accept change.

The tactics developmental legal aid lawyers use to implement this strategy cover a wide range. In some cases, they simply urge an interpretation of existing law different from the official interpretation in order to favour the rights of the poor. In others, they challenge policies citing constitutional provisions, public utterances of government or international formulations of human rights. In still others, they challenge government itself for usurping or impairing the sovereignty of the people. In all cases, they take pains to document the effects of the policy or act in question on the persons or social group it affects in order to show that these effects are so detrimental or so blatantly unfair that they shock the conscience.

Practitioners of legal aid do not expect this strategy to cause the regime to abdicate, change its authoritarian nature, or abandon its policies — although should it do so, so much the better. Their expectations are lower: first, to make the regime begin to doubt its own legitimacy and thus blunt the cutting edge that unchallenged belief in its righteousness could give it; and second, to open the eyes of the people and of supporters of the regime, domestic and foreign, to its illegitimacy and to the injustice it perpetrates or tolerates, and thus erode what support it enjoys.

## VI

The second part of the strategy is to help the poor, as members of communities or social sectors, become aware of the causes of their situation and organize and mobilize themselves to overcome these causes.

This strategy rests on these beliefs:

- That the power of governments ultimately rests on submissiveness — ‘your very force is nothing but my fear’<sup>15</sup> — and can be neutralized by developing the sense of self-respect in people that denies submission, the self-respect that ‘is the basic power ingredient behind the great Asian revolutions of our time associated with the names of Ghandi and Mao — the poor man’s power, Asian power, human power.’<sup>16</sup>
- That just as law can be and has been used, misused and abused to institutionalize poverty and privilege, exploitation and inequality, it can also be used properly to establish social justice and equity, participation and autonomy.



To accomplish this, however, law must be generated by the people themselves; the role of developmental legal aid is purely supportive. The poor and the oppressed must rely on their own efforts, not on lawyers, to forge a better society. But their efforts must be organized to be effective, not only because of the strength of numbers, but also because the poor have been alienated from each other as much as from the elite, they are subject to the same temptations and suffer from the same frailties as all men, and have to learn to work together since, in the end, they will attain development only by that self-liberation that generates social liberation.

The tactics used to implement this strategy are:

- to inform people of their legal rights;
- to show how these rights are often inadequate or inadequately enforced;
- to search with them for the causes of the inadequacies; and
- together to devise legal and social solutions.

This process produces a heightened awareness in both the poor and the lawyers that is the beginning of development. But that beginning will be abortive unless awareness is converted into action. So the process is supplemented by steps designed:

- to encourage the poor to organize and mobilize themselves, such as by explaining the advantages of organized effort, citing examples, and informing them of the legal requirements and pitfalls of organizing;
- to urge them to cooperate with other groups similarly situated, specially when the similarities are not immediately apparent, as in the case of tribal groups and urban squatters; and
- to motivate them to invent and use metalegal tactics — non-violent group actions that transcend normal judicial or administrative procedures yet remain faithful to the basis of law in that they seek the common good — to supplement and strengthen standard legal tactics to change law and society.

Practitioners of developmental legal aid do not expect this strategy to succeed in all cases. But they do expect that, more often than not, the strategy will help overcome the sense of impotence —

the most serious obstacle to development — that centuries of oppression have instilled in the poor, and replace it with a sense of power that will release the creativity and the drive immanent in them as in every man. And that is in itself development.

## VII

Developmental legal aid groups face the same problems that traditional legal aid groups do — and more. Like traditional legal aid, they suffer from:

- Lack of time, manpower and resources.
- Difficulties of communicating with the poor they serve.

And more than traditional legal aid groups, they face threats of reprisals from authoritarian governments. Some legal aid lawyers have in fact mysteriously disappeared, been jailed or physically assaulted.

Developmental legal aid groups have tried to solve these problems in a variety of ways.

To save time, they have, for example:

- Limited themselves to handling public disputes, cases that affect large numbers of people or reflect social issues, referring private disputes to traditional legal aid practitioners.
- Enlisted the expertise of academics and social workers to supply data and insights into the sociological and psychological dimensions of the legal problems they deal with, and to carry out pilot surveys or samples where data are not available.
- Produced primers which explain both what the law is and what it should be on rights to land and on rights of oppressed sectors like small farmers and landless agricultural workers, fishermen, urban poor, tribal minorities, industrial workers, students and political prisoners. These primers were drafted by lawyers who have had experience with problems of each sector. The drafts were submitted to representatives of the sector concerned, who were asked to criticize both language and content, to point out which portions were not clear, which portions were not relevant to their everyday problems, and what problems were not adequately covered. Then workshops were held, attended by these representatives and by the lawyer-authors, in

which the criticisms were threshed out. Only after the drafts had been revised to meet the criticisms were they issued.

To overcome the manpower problem, developmental legal aid groups have:

- Enlisted the help of organizations they work with to keep their eyes open for and recommend lawyers who display awareness of the problems of the poor and can be recruited for legal aid work;
- Trained paralegals or 'barefoot lawyers' in the basic concepts of law, legal procedure, tactics and counter tactics, and in the skills needed to do routine, repetitive, or preliminary jobs and carry out simple investigations, such as interviewing witnesses and taking down their statements, getting copies of public records, preserving physical evidence, filling out standard government forms, etc. Paralegals are chosen from among promising students of law and social sciences who agree to do field work with poor communities between school terms; representatives of depressed communities who are recommended by civic organizations working with them; and trade union members recommended by their unions. Paralegal training has produced several benefits. Lawyers have had more time to devote to the creative aspects of their job: counselling, negotiating, drafting, advocacy. Some law students were motivated by their experience as paralegals to join legal aid groups after admission to the bar. And paralegals have equipped the communities they live in with a knowledge of how law works and how to use law to assert or defend their rights.

There will never be enough funds for developmental aid groups. Governments certainly will not fund them; and in any case, developmental legal aid groups are jealous of their independence and carefully guard against control by government or any other individual or group. So they have tried to stretch the meagre funds they have in the following ways:

- Lawyers charge no fees for their time and services, and shoulder the cost of their transportation and the overhead expenses incurred in legal aid cases. Only when lawyers devote more time than they can afford to legal aid are they given modest honoraria from legal aid funds.

- Whenever they can afford to, legal aid clients shoulder all out-of-pocket expenses for filing fees, gathering evidence, transportation to hearings, and the like. Only the portions of these expenses that clients cannot afford are paid from the funds.
- Seminar expenses are borne by the organizations who request paralegal training. Often space is free, and participants bring their own food.

These policies require lawyers to devote only part of their time to developmental legal aid. This has obvious disadvantages. However, the disadvantages are offset by the fact that their paying practice keeps lawyers' skills honed, avoids the tedium of over-specialized practice, and maintains their reputation and respectability at the bar and with the elite community. It also provides an assurance that the time and skill they devote to developmental legal aid are products of firm commitment, not self-interest.

With respect to the danger of reprisal, developmental legal aid groups have adopted such tactics as the following:

- Only lawyers who enjoy spotless reputations in their community are recruited; many are, in fact, leaders of bar associations; their reputation and standing restrain government from committing blatant acts of reprisal and, at the same time, add to the persuasiveness of their legal aid advocacy.
- Lawyers work in close cooperation with organizations who enjoy so great a prestige or so large a following that government hesitates to take action against them.
- Lawyers take pains to keep their relations with developmental legal aid clients on a strict lawyer-client basis and to give government no factual grounds to level charges of subversion or other wrong-doing against them.

Still threats of arrest, detention, physical injury and death are always present. Developmental legal aid lawyers and their families have to learn to live with these threats.

Much more, of course, remains to be done. But a beginning has been made. Despite costs and risks, the number of lawyers involved in developmental legal aid has multiplied. This alone gives hope that their work has some value and that it will continue and become more effective as they and the poor learn from their failures and successes.

## VIII

Developmental legal aid seeks to use law to redistribute power and change social structures — in effect, to wage revolution by law. Can it succeed?

Practitioners of legal aid hope that it will, but in truth they do not know, and can not know until it has been fairly tested. There is much to be said for revolution by arms, as there is much to be said for revolution by law. Power does flow, as Mao Tze Tung said, 'from the barrel of a gun', a saying authoritarian governments live by and sometimes even quote. But power also flows from strength of will and of spirit, as Ghandi proved and as students of war from Sun Tzu<sup>17</sup> to Beaufre<sup>18</sup> confirm. Napoleon himself, the great master of war, said: 'There are only two things in the world, the sword and the spirit. In the long run it is always the spirit that will conquer the world.'<sup>19</sup> To which, of course, the proponents of arms will reply, with Keynes, that 'in the long run we shall all be dead'. The debate goes on, with inconclusive results.

What is conclusive is that any revolution, whether by law or by arms or both, may fail; but every revolution must involve law. Law rests on force or the threat of force — yes, but only ultimately. Governments do use force and the threat to use force always lurks beneath the surface — true; but if governments were to rely solely on force to maintain themselves in power, they would sooner or later collapse. This is why governments enact law: because, as Rousseau said, 'Even the strongest is not strong enough unless he transforms his power into law and obedience into duty.'<sup>20</sup>

So the struggle to develop, to forge a better society, must involve a struggle over law. In that struggle, the poor and the oppressed can use law to liberate themselves as the oppressors use law to oppress them. In the event, law may prove not to be a sufficient weapon, but it is nonetheless a weapon not to be ignored. For the use of law enhances man in a way that the use of arms does not. Should his revolution succeed, whether by law alone or by arms also, he will be the better prepared to build a more just, more human and more humane society over the ruins of the old. Should his resolution fail, he will still retain his knowledge of how to use law to discomfit the powerful. And he may find solace in the lesson Filipino peasants have time and again uttered, 'No uprising fails. Each one is a step in the right direction'.<sup>21</sup>

## NOTES

- 1) I have limited this paper to ASEAN countries, *first*, because the participants in the Seminar come only from these five countries, and *second*, because I have no data on legal aid in socialist countries of South East Asia.
- 2) See, for example, Chia Siou Yue, 'Economic Development', in Keonil S. Sandhee et al., eds., *South East Asian Affairs*, 1978, Singapore: Heinemann Educational Books (Asia) Ltd., for the Institute of South East Asian Studies, 1978, p. 18.
- 3) David R. Sturtevant, *Popular Uprisings in the Philippines 1840-1940*, Ithaca: Cornell University Press, 1976, p. 290-291. Emphasis added.
- 4) Benedict J. Kerkvliet, *The Huk Rebellion: A Study of Peasant Revolt in the Philippines*, Berkeley: University of California Press, 1977, p. 269. Emphasis added.
- 5) International Covenant on Economic, Social and Cultural Rights, Art. 8, par. 1 (d).
- 6) Austin Sarat, 'Book Review', in *Harvard Law Review*, Vol. 94, No. 8 (June, 1981), p. 1919.
- 7) Austin Sarat, *ibid*, note 6, p. 1917.
- 8) Wassily Leontieff, Anne P. Carter and Peter A. Petri, *The Future of the World Economy, A United Nations Study*, New York: Oxford University Press, 1977, p. 11.
- 9) Trubek, 'Public Advocacy: Administrative Government and The Representation of Diffuse Interests', in Mauro Cappelletti and Bryant Garth, eds., *Access to Justice*, Vol. III: *Emerging Issues and Perspectives*, Amsterdam: Sijthoff and Noordhoff, 1979, p. 493, quoted in Austin Sarat, *ibid* note 6, p. 1923.
- 10) *Legal Aid and Development: A Reconsideration*, paper submitted to the Seminar on Human Rights and Development Cooperation, called by the Nederlandse Organisatie voor Internationale Ontwikkelingssamenwerking [NOVIB], held at Noordwijkerhout, Netherlands, December, 1980.
- 11) UN General Assembly Resolution 3281 (XXIX), December 12, 1974, adopted by a roll call of vote of 120 ayes, 6 nays and 10 abstentions.
- 12) Typical are the efforts, among others, of the Lembaga Bantuan Hukum (LBH & Institute of Legal Aid) of Indonesia and the Free Legal Assistance Group [FLAG] of the Philippines.
- 13) Adnan Buyong Nasution, *ibid* note 10. See also two other papers on legal aid and development submitted to the same seminar: one by Eduardo Umana of the Corporacion Colectivo de Abogados (Lawyers' Collective Corporation), Bogota, Columbia, *Legal Help in Conscientization Process*, the other by Jose W. Diokno of the Free Legal Assistance Group, Manila, Philippines, *Legal Aid and Development*.
- 14) Gustav Radbruch, 'Legal Philosophy', in Kurt Wilk, trans., *The Legal Philosophies of Lask, Radbruch and Dabin*, Cambridge, Mass.: Harvard University Press, 1950, p. 125.
- 15) Gustav Radbruch, *ibid* note 14, p. 115.
- 16) Johan Galtung, *The True Worlds: A Transnational Perspective*, New York: The Free Press, McMillan Publishing Co., Inc., 1980, p. 63.
- 17) Sun Tzu, *The Art of War*, Samuel B. Griffith, trans., London: Oxford University Press, 1963, p. 38, 63-71.
- 18) Gen. d'Armée Andre Beaufre, *An Introduction to Strategy*, Maj. Gen. R. IJ Bany, trans., London: Faber and Faber, 1965, p. 138, and *Strategy of Action*, *ibid*, 1966, p. 113-114, 131.
- 19) Quoted in Gustav Radbruch, *ibid* note 14, p. 115, footnote 4.
- 20) Quoted in Gustav Radbruch, *ibid* note 14, p. 115.
- 21) Salud Algabre in David R. Sturtevant, *ibid* note 3, p. 296.

# THE LEGAL AID MOVEMENT IN INDONESIA: TOWARDS IMPLEMENTATION OF A STRUCTURAL LEGAL AID CONCEPT

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## The development of legal aid organizations in Indonesia

The decades of the 70s and 80s have been coloured by the prolific growth of new legal aid organizations in Indonesia. Not less than 70% of the presently existing legal aid organizations — the Jakarta Institute of Legal Aid being one of them — were established during that era.

Without having to go into the matter of whether the new organizations were just the phenomena of an era, or in actuality a reflection of more basic changes in the social and legal interrelationship in Indonesia, they are a reality which is here to stay among the other socio-political realities.

The model of legal aid being used, its character, the political attitude and orientation taken, the tactical and strategic options of the legal aid organization, its potential, capabilities and limitations — all differ from one organization to another, depending upon the conditioning of internal and external factors.

A theoretical study suggested that, among other things, the model of legal service reflects a stage in a country's development and signifies the span of professional response to that certain stage; social powers and conditions, political order and the characters of the legal aid extenders also determine the system or model of legal service for the poor in a given country.<sup>1</sup>

From the number of legal aid organizations in Indonesia, at present amounting to 80, 20 are established in Jakarta. As seen from the organizational grouping, they can be divided into five main groups, i.e. :

- Legal aid organizations which were established by the Indonesian Bar Association and presently coordinated further by the Indonesian Legal Aid Institute Foundation (YLBHI), for example, the Jakarta Institute of Legal Aid, the Surabaya Institute of Legal Aid, and others;

- Organizations for legal aid which operate under the auspices of State University Law School;
- Organizations for legal aid which operate under the auspices of private university law schools;
- Organizations for legal aid which operate under the auspices of social-political organizations such as the Golkar-LPPH;
- Organizations for legal aid with orientations toward certain interest groups in society such as the Ocean Legal Aid Institute (LBHL), the Institute of Legal Aid for Women and the Family and unaffiliated legal aid organizations such as the Indonesian Lawyers Association, Legal Aid and Study Group (KSBH) and several other legal aid organizations based in Jakarta.

The above development can be noted as merely a quantitative increase, because qualitatively a question must still be answered: how much has this burgeoning increase in the number of organizations actually achieved in improving the face of justice in this country?

However, notwithstanding this question, the development has resulted in the formation of several tendencies which are advantageous to the realization of the rule of law and the efforts for a structural change toward a more just society.

There are several reasons which support the above statement:

- firstly, with the spread of legal aid organizations, there is a better opportunity for the targets of legal aid service, who are the poor and the law-ignorant, to obtain legal services and to seek justice;
- secondly, this development has influenced the government and legal practitioners to be more responsive to the legal needs of the poor;
- thirdly, the growth of the legal aid organizations enhances the broadening of opportunities in legal endeavours, and the institutionalizing of participation with increasing intensity towards legal renovations.

### **Factors which influence the growth and roles of legal aid organizations**

Before the 70s there were several basic laws which regulated the organizing of legal aid, but in practice, even up to the passing of the Judicial Powers Law No. 14/1970, there was no clear legal base for the organizational operations of a legal aid organization



to cater for the lower level in the social stratification in Indonesia. The latter law only referred to the rights to obtain legal aid.

At the conceptual level, the idea of organizing legal aid with a clear orientation towards the interests of the public was spawned only recently. It was in the year 1969, at the Congress of the Indonesian Bar Association in Jakarta, that the establishment of an institute of legal aid for the poor in Indonesia (later to be known as the Jakarta Institute of Legal Aid) was approved.

The establishment of the Jakarta Institute — and also other legal aid organizations which were born since 1978 — clearly cannot be separated from the political, economic, and social developments occurring in Indonesia, which are:

- firstly, the ever-increasing demands of the public, especially among the poor, to obtain justice, which needed institutional settlement. In Jakarta, for example, the process of national development has created considerable side-effects, among them forcible evictions of a number of citizens from their lands because of the city's development policy, meanwhile in other regions the legal problems faced by the people have been accumulating: the inhuman treatment received in judicial processes, the ignoring of basic rights and other legal aid or social problems which clearly needed legal protection;
- secondly, the increasing intensity of the struggle for the rule of law and the upholding of human rights. This has been noted, for example in the 1967-8 period, as expressed by Daniel S. Lev<sup>2</sup>, when several intellectuals, journalists and human rights activists reacted strongly against new waves of arrests, detention and oppression by politically suspect powers. The meaning of a struggle towards the rule of law has been elucidated by Daniel S. Lev as follows:

‘. . . . . For others, amongst them professional lawyers, intellectuals and other people committed to further change, the rule of law (lit. a law state) means the more total restructuralization of Indonesian society in order to broaden opportunities in the forms of certainty, order, the protection of private rights and uniformity of procedures for the poor in the cities and villages. Because the liberal perspective has been taken in a moderately radical context, there emerged

new programmes for legal aid and pressures upon traditional law doctrines, and the type of demands which were not met by the Judicial Powers Law No. 14/1970.<sup>3</sup>

The resurgence of constitutionalism as a factor which conditioned the organizing of legal aid is an undisputed fact, because basically the new concept of legal aid arose from among the supporters of constitutionalism.<sup>4</sup>

- thirdly, the political freedom given by the government of the New Order for certain political reasons and with the intention of achieving the goals of national development. From a certain point of view, the development of the legal aid movement cannot be separated from the politics of national development adopted by the New Order government and its strategy of even distribution, especially in the undertaking of a policy to open the channel for the even distribution of the opportunity to obtain justice in the GBHN of 1978. And as already mentioned at the beginning of this article, the development of legal aid models cannot be separated from the stages in national development.<sup>5</sup> In the application of this concept of the distribution of opportunities to obtain justice, freedom was given to establish legal aid organizations, especially after the year 1978. But, from a different viewpoint, the political freedom to organize legal aid apparently had a strong connection with the adaptation of repression, which was complex and universal. Cautious management and tolerance of looser organizations among the middle class, are definitely characteristics of a certain stage in the development of developmentalist-repressive regimes.<sup>6</sup> The limited freedom granted to establish organizations such as legal aid organizations is often a part of such countries' policies.<sup>7</sup>

Legal aid in developing countries, apart from being conditioned by the three factors mentioned above, theoretically has the following meaning and goals:<sup>8</sup>

- that effective legal aid is an essential prerequisite for the carrying out of the functions and integrity of the judiciary, and that legal aid is a humanitarian demand;
- to develop a unified system of national law;

- to increase the sense of responsibility of government officials or bureaucrats towards the people;
- to develop greater participation of the people in the governing process;
- to strengthen the legal profession.<sup>9</sup>

Seen from the viewpoint of legal development, legal aid in general is a prerequisite for the achievement of participative objectives in a responsive legal system.<sup>10</sup> Legal aid organizations must always keep in mind the possibilities and limitations of their role. The realization of hopes, the fulfilment of the legal needs of society, and the orientation of the legal profession are not the most determining factors in the role of legal aid organizations. Many other factors exist which hinder the organizing of legal aid,<sup>11</sup> whether these are cultural factors such as the values found in society, or factors which are structural in character such as the unequal distribution of power and the control of existing resources, including legal resources.

### **From differing perspectives towards the developing of the concept and implementation of structural legal aid**

Political, economic and social realities, their processes and the internal developments within the legal system which made possible the extension of legal aid activities, apparently resulted in different perspectives of the concept of legal aid and its types of operation.

Some practitioners and legal aid activists still hold to 'legalistic' principles, and legal aid activities are carried out in faithful adherence to judicial conventions in the field of legal intricacies. Within the framework of this type of thinking, the main recipients of the legal aid are vague and uncoordinated groups.

At the same time the official perspective, issuing from the government, wanted to limit legal aid activities to legal advice and trial defences, and legal aid organizations were to avoid activities which were political in nature.<sup>12</sup>

But as a reaction to and reflection of political, economic and social realities, and the injustices that went with the application of the law, which was gradually seen to be of greater benefit to the upper social strata in Indonesia, there developed critical insights which resulted in a better perspective of legal aid. This new perspective saw that legal aid has to be for the poor and law-ignorant with a span of activities not limited to the defence of case trials

only, but broadened to the active combination of litigation and non litigation activities.

This concept has been adopted extensively. In the workshop on Legal Aid for Indonesia in 1978, attended by almost all major legal organizations in Indonesia, the concept was acclaimed as the guiding principle for all legal aid organizations.

Later developments saw some legal organizations still adhering to the 'traditional' perspective, due to economic or political considerations. Meanwhile, on the other side of the coin, the Institute of Legal Aid in Jakarta has not only adopted the newer perspective, but it has developed it further into a more progressive concept: structural legal aid.

The concept of structural legal aid<sup>13</sup> was born as a consequence of deeper insight into law. The legal reality that is being faced is a by-product of social processes which occur in a certain pattern of relationship among the existing infrastructure of society. It follows that, so long as the pattern of communication among infrastructures of society is unbalanced, justice will be more difficult to achieve. The injustices and oppression which we often see in society are not the result of individual deviations from the norms of basic rights, but rather come from the social pattern of communication which is unbalanced.

If such is the case, structural legal aid means that a series of programmes have to be carried out through legal and non-legal channels, which are designated to bring about a change for the better in the relationships which form the basis for social life. This is a prerequisite for developing law so as to be able to bring about justice for the poor majority in Indonesia.

At the operational level, structural legal aid will reach rural and urban areas, with selective judgement in defense i.e., for cases which pertain to the collective interests of the programmes that have to be more active, with programmes that have to be more clearly oriented to the interests of the lower-class in society, such as the legal education of the public, aiding workers, fishermen and farmers, together with other programmes which have been identified as in accordance with the legal needs of the poor.

In the macro scale, structural legal aid underlines the commitment of the legal aid activist to influence and create conditions which, in the development of Law, are in harmony with the people's interests.

For this purpose, two criteria have to be fulfilled. First, professional elitism has to be avoided; and second, the individual or organizational independence of the legal worker has to be forgotten so that the implementation of the structural legal aid concept will not be hampered by internal factors.

In November 1980, with the organizing of the workshop on Legal Aid in Parapat, Medan, by the Indonesian Legal Aid Institute foundation, the concept of structural legal aid has been more clearly formulated. This formulation can be regarded as a starting point for determining and formulating more operational concepts and working methods. In the formulation it was stated that the main objective of structural legal aid is conscientization as a means of gradually changing the unjust existing social structure. Conscientization has to be carried out with organizational efforts.

With the transformation of the concept into a programme, the work by the Jakarta Institute of Legal Aid now combines litigations and non-litigation activities based upon the framework of structural legal aid. The litigation activities are not limited to court work, but involve various efforts in conscientization, publishing of cases which reflect structural injustice, and efforts to use the law in the interests of the poor. Non-litigation activities mainly consist of efforts to find newer alternatives in legal aid, to increase law-awareness among the people, and to provide legal information and protect human rights. Conscientization activities include direct efforts towards increasing people's awareness, various publications and the carrying out of developmental functions.

## **Final notes**

The qualitative development at the conceptual level and the quantitative growth of legal aid organizations in Indonesia cannot be separated from the influence of several factors. Those factors, coming from within the legal system itself or resulting from the interactions of political, economic, and social factors, were the processes and structures which conditioned the directions, forms, contents and existence of the legal aid organizations in Indonesia.

Structural legal aid is a concept which can be the guiding principle for organizing legal aid programmes and actions in Indonesia and which will help to elicit active participation of the masses in freeing themselves from structures of injustice and poverty towards a more just social life.

## References

- 1) See for example Arthur L. Berney and Harry A. Prierce, 'An Evaluated Framework of Legal Aid Models', *Washington University Law Quarterly*, Vol. 1. 1975, p. 5-43 which studies the models of legal aid in the context of national development.
- 2) Daniel S. Lev, 'Kekuasaan Kehakiman dan Perjuangan untuk suatu Negara Hukum', *Prisma*, No. 1. January, 1981.
- 3) *Ibid*
- 4) See Adnan Buyung Nasution, *Bantuan Hukum di Indonesia* (Jakarta: LP3ES, 1980), especially p. 118.
- 5) A.L. Berney and H.A. Pierce, *op. cit.*
- 6) The theoretical framework which can be used to understand this development, see: Herbert Faith, 'Rezim-rezim Developmentalis Represif di Asia: Kekuasaan Lama, Kerawanan Baru,' *Prisma*, no. 11, Nov., 1980, hal. 69-84, which was also printed in *Escape From Domination; International Affairs-CCA*, 1980, p. 49.
- 7) Also, for the understanding of political freedoms as mentioned, see Jan Breman, 'Rezim Baru di Asia Negara Lembek dalam peralihan menjadi Negara Kuat', *Prisma*, March 1981, p. 72.
- 8) See Barry Metzger, 'Legal Services to the Poor and National Development Objectives', in *Legal Aid and World Poverty*, Praeger Publishers, 1974 .
- 9) Analysis of the digression by Metzger in relation to the cultural and structural aspects of legal aid activities development in Indonesia, in Adnan Buyung Nasution, *op. cit.*
- 10) Philippe Nonet and Philip Selznick, *Law and Society in Transition*, London: Harper & Row Publishers, 1978, developed the theory of the three basic law situations, i.e., repressive law, which is the tool of the repressive power, autonomic law, which is capable of taming repression and protecting its own integrity, and responsive law, as a means to respond to social needs and aspirations. Responsible law is characterized by, among other things, increasing participation through legal channels in the legal system.
- 11) Adnan Buyung Nasution, 'Tiga Hambatan: Kultur, Konsepsi Politik dan Keadaan Ekonomi', in Adnan Buyung Nasution, *op. cit.*, p. 23.
- 12) Even until now, the official perspective is still used. Statements which considered the politization of legal aid as 'beyond the line' have been issued by several important government officials. Meanwhile the ever-tightening control of the government in the effort to restrict the activities of legal aid organizations to consultations and trial defence activities, has been increasingly felt recently, especially for legal aid organizations operating under the auspices of State Law Schools.
- 13) See Adnan Buyung Nasution, *op. cit.*, especially p. 126, and also several other articles by the author which elucidate the theories of structural legal aid.

**DHARMA CIPTA**  
**(or CREATIVE COMMITMENT)\***

**A motivators programme  
for village development**

In April 1971, the VII General Assembly of the National Council of Churches of Indonesia (DGI) decided 'to set up a Development Centre with the function of a planning unit for all the programme activities of the DGI in particular, and the member churches in general' in response to new ideas on development in Indonesia and the international ecumenical community.

At almost the same time, the World Council of Churches' (WCC) Montreux Consultation of 1970 led to the creation of the Commission on the Churches' Participation in Development (CCPD-WCC). When CCPD developed its counterpart strategy, it was logical that Indonesia was chosen as one of the four pioneering programmes of regional development fully supported by CCPD. Both sides had similar thoughts and perceptions on development.<sup>1</sup>

The original intention for the DC was 'that it should be searching and experimental, visionary and daring, with a minimum of institutional structures so that it enjoyed a maximum freedom of action. The DC would have accomplished its mandate if it could

- (1) create a new movement of people, motivated by the Christian faith and appropriately trained to serve the poor of Indonesia;
- (2) pioneer a new way of life in the context of the social, political and economic reality of Indonesia;
- (3) influence the thinking and styles of work of DGI on the one hand, and of the governmental authority on the other, helping them to see the new visions and possibilities as exemplified by the work of the DC;
- (4) share its precious experiences with others, near and far.'

As the DC and its development programme was something new, a new working approach which differed from the methods of the other units within the DGI had to be introduced. Not only did the working methods have to adapt to the new situation but the system of financing of projects had to be changed, too.

\* This paper was prepared by the ICJ staff based on material provided by Mr Ed Lalisang, Indonesia.

## Financing by 'Consortiums'

Since 1974, the programme of the DC has been supported by a consortium of agencies under the leadership of CCPD-WCC, viewed by many as a new tool of financing. The idea of a consortium was first raised when the question of improving cooperation between aid organizations and sponsors of projects was put into the agenda of ecumenical conferences. It was realized that what was needed was to find ways in which the churches could define their specific contribution to development. The normal pattern of financing was inadequate for this purpose. In the normal pattern, the relationship between project partner and aid organization is that the former draws up its proposal for the project and sends this to some aid body it knows of. Here it is examined against certain criteria and presented to a grant committee with a recommendation either that it be approved or rejected. If the grant committee decides in favour of the proposed project, the agreement is entered into with the sponsors of the project detailing the arrangements to be followed. Once the project is completed, a final statement of accounts is drawn up and when this is done, the cooperation is at an end.

However, the consortium idea of cooperation is different. Rules have been evolved governing the distribution of tasks as well as the duties and rights of the individual partners. These include, for example, the agreement that the final decision on the nature and purpose of projects should rest with the commission in the developing countries. On the other hand, each member of such a 'Consortium' was given the opportunity to contribute advice and criticism. Thus instead of bilateral cooperation between donors and recipients, there is a process of 'round table' discussion and agreement.

In Indonesia, the churches and their partners are free to cooperate and implement programmes and the development centre brings them together.

### *First Consortium 1976-8*

In 1974, a meeting held between the churches in Indonesia and the partner agencies ICCO, BfdW, EZE, HEKS, Christian Aid, CIDA, CCA and CCPD and representatives from USA, Australia and New Zealand, resulted in the Indonesian Consortium (Sukabumi). The CCPD was asked to continue the five year programme (1971-5) of the DC and thereafter, a comprehensive three year programme (1976-8) would be introduced.



In implementing the Sukabumi agreement, many difficulties had to be faced because in reality each partner only chose its favourite programmes, such as development education and rural community development. Nobody wanted to assist the central administration. Consequently other meetings were held in Geneva and Oegstgeest in 1975 and it was then decided that implementation be postponed to 1976-8 and the central administration was covered by CCPD. A Consortium Evaluation Team has made a report of its assessment of the programme during this period.

### *Second Consortium 1979-81*

Mutual agreement was reached on continuing with a second consortium. This consortium started with a budget of DM3.5 million (approximately US\$1.5 million). As with all multi-funding projects, the task of bringing together different financial systems, accounting procedures, and financial and narrative reporting is tremendous.

The old system of compromise of Consortium I, following everybody's rules in order to get the money, has been abandoned. Consortium II has taken the programme of DC as a whole; it is no longer divided into parts which can be picked out voluntarily. All members of the consortium will provide a percentage of the total budget. There will only be one simple reporting system instead of six, as in the old system. Consortium II will be an experiment in an improved financial system of sharing.

### **Structure of Dharma Cipta**

The DC is placed within the DGI. There are three commissions and three institutes within the DGI, one of which is the DC. The Commissions are headed by Secretaries under the co-ordination of the General Secretary, and the Institutes by directors and have their own boards. The executive board of the DC consists of 15 members with five core members appointed by the Central Committee of the DGI for the period between Assemblies. Each year at the meeting of the Central Committee, the DGI and DC submit their report, plans and budget. The Chairmen of all Commissions of the DGI become members together with the general executive leadership of the DGI (general secretary and treasurer) and some Christians very much involved in the policy of development in Indonesian society.

The programme areas set up by the DC are:

- Village Development and Motivators Training Programme

- Development Education
- Appropriate Technology
- Theological Basis and Ecumenical Relations

### **Village Development and Motivators Training Programme**

In principle the whole DC programme can be understood as an effort at mobilizing especially poor and underprivileged social groups to participate in the development process. The main instrument for this mobilizing effort is the motivator programme, but there are, of course, other possibilities (such as a variety of training courses, practical involvement in projects, etc.). The Motivator Programme will be dealt with in greater detail later. The following are pedagogical principles underlying the motivator approach.

- The motivators are not an end in themselves, but meant to be a tool which eventually will become dispensable. Their aim is to build up the community in such a way that it will be able to help itself;
- The motivator is a catalyst helping to bring out the best in people themselves. Therefore, all activities must be geared towards enabling people eventually to take up responsibilities to form organizations in which they can participate and through which they can gradually learn to build power. The motivators must avoid all actions that will make people dependent on them;<sup>2</sup>
- Learning happens by doing things together. People are gradually motivated because they can see some results of their work.
- Motivators emphasise people as the most important force in the development process. They are to be the main agents and the first beneficiaries of this process. This is why the motivators do not enter the village with other inputs such as money or tools. Certainly, capital inputs are needed, but care is taken that the availability of money does not corrupt the initial process of people organizing themselves for cooperation.

The target group of the Motivator Programme, in the strictest sense, is the population in villages which are especially poor and which lack the impetus necessary for their own social and economic development. In a wider sense the target group includes church officials and representatives of the local administration. It is hoped

that they will be moved towards a greater sense of responsibility and action for the rural underprivileged.

The objective is village development. The instruments are the motivators who are sent for three years into the village after a seven-month training. They receive Rps. 7,500 (approximately US\$12.50) per month and Rps. 10,000 (approximately US\$16.60) is put in a savings account for them which is kept till they complete their service. The motivators are called to be 'witnesses and servants' living out their Christian faith in service to the community.

A guiding principle of the DC is not to place the motivators during their three years' service in their home region but in the area of another congregation. There are two reasons for this decision. First it is assumed that motivators would have difficulty in becoming 'agents of change' amongst their own people. Secondly, the DGI has a clear policy of '*satu gereja satu bangsa*' (one church, one nation) and the placement of motivators in areas other than their home region is a deliberate attempt to strengthen this understanding amongst the churches and others.

### *Selection and training of motivators*

The DC recruits its motivators from the members of its related churches. The candidates must not be married (and have to stay unmarried during the duration of their service). They must have completed at least secondary school education. The training course at Cikembar takes six to seven months. The trainees are assessed on their stability of character, creativity, religious motivation, discipline, practical and organizational skills. Group behaviour and a 'feel' for agricultural work are all taken into account. At the end of the course a 'judicium' combines these criteria in an overall assessment, in which the explicit readiness of the individual to serve three years in any village plays an additional role. Usually about 20-25% of the trainees do not complete the training.

The aim of the course is not to produce small-scale 'experts for rural development' equipped with clearly defined practical knowledge and skills. The 'personal approach' of the motivators is emphasised. As educators, mediators, initiators and researchers, motivators should induce innovations through their personalities rather than by specialist knowledge. This approach is appropriate in very poor rural communities or new settlements and it is particularly appropriate that the DC should undertake a programme of this nature since there are virtually no 'motivators' in any rural development programmes in Indonesia.

However, the present training course places great emphasis on agriculture and appropriate technology. There are courses on agricultural training, including animal husbandry and fisheries; a greater emphasis on health and nutrition; the inclusion of information on government services in rural development; more instruction in appropriate technology; the treatment of the topic 'tradition and culture'. The recruitment of women motivators and the consequent incorporation of 'women's work' into the curriculum is another far-reaching innovation.

The way of living in the training centre itself copies village conditions. This is as true for the trainees' accommodation as for their daily routine, which corresponds to that of an ordinary farmer. Finally, the use of simple training materials and working practices, adjusted to rural conditions, are aspects of the programme designed to help the trainees adapt to rural life. Mainly traditional methods are used in the agricultural work. The introduction of innovative techniques, such as ploughing, soil improvement, pest control, irrigation or the construction of simple houses, wells, toilets, etc., has been handled strictly on the basis that the motivators should be able to implement a technique in the villages without external assistance. The most technically advanced appliance in Cikembar is a motor plough. It was acquired at a time when no external labourers were available for the cultivation of the rice fields. Today it serves as a source of energy for experiments in appropriate technology in the work shop of the training centre.

Diverging from the original intention of giving the same training to all, a '*terminal system*' has been introduced into the curriculum. This means that the training is differentiated in the last two months, taking individual skills and future fields of service into account. This innovation arises from feedback from the villages which suggested the need for workers with different qualifications and job descriptions. There are now three categories. The training of the '*motivators*' concentrates during the last two months on their leadership and organizational abilities. '*Field workers*' receive extra technical training, and for the '*pioneer farmers*' an intensified practical agricultural course is provided. On the basis of this differentiation 15 motivators, 19 field workers and 8 pioneer farmers emerged from the fourth batch. In the fifth batch there will be 8 motivators, 15 field workers and 10 pioneer farmers. These figures indicate the remarkable decline in the number of motivators and a large shift in the original training objective.

## *Field work*

The selection of areas and institutions where motivators are placed is a question of strategy and politics. The DC is trying to interest churches, especially in the more remote areas, in the matter of development generally, and in the special development activities of the DC in particular.

The DC also tries to develop good relationships with the regional and local governments from whom permission to place motivators in the villages is required. But the purpose is also to draw the attention of the government to new possibilities of village development or to facilitate government services reaching the village people.

So the selection of villages is carried out in close cooperation with both local and regional churches and government. In principle, before the selection, there is a feasibility study and survey which will involve the Director and several sections. In practice, due to pressures on the DC, this does not always happen. For example, in North Sumatra, a sum of Rps. 500,000 was given to a village first and only later the introduction of a credit union and the placement of a motivator to organize the credit union was made.

The following is an overview of the 1979 Motivators Programme. 82 people were employed as follows, spread out over 44 villages:

- 53 are working directly in village community development programmes
- 15 are working in community development training centres of the churches
- 1 is working in a church project
- 2 are working in a government project
- 7 are working in Cikembar
- 3 are working in a fishery project of the DC in Tangerang
- 1 is working in a DC credit union

They were divided as follows: 6 instructors, 47 motivators (4 women), 19 field workers (2 women) and 10 pioneer farmers.

All activities are organized either as a response to local needs or as a stimulus to local potential. Usually, possible activities are identified by a survey of the social and economic situation of the village population which the motivator carries out in cooperation with the village people. One of the 'tools' that all the motivators take to the village with them is a 'guide book' for their work. This contains:

- (a) suggestions about how to prepare and set up village projects including how to make a socio-economic survey of the village;
- (b) a 'model' questionnaire for seeking information from the village head about conditions in the village, including questions about economic activities in the village and the priorities for development;
- (c) a questionnaire for family surveys, covering their size and composition, education, economic situation and general health;
- (d) a suggested model for a diary with ideas about how to record activities and results and further information on data collection.

Activities are proposed and initiated by the motivator, or in exceptional cases, by an already existing village organization. Typical activities include educational work (including health education, vocational training and upgrading, etc.), organization work (including setting up and assistance with management of cooperative organizations) and demonstration of new possibilities (making of sawah fields, home gardens, etc.). The aim of all these activities is to create in the village viable organizations that will allow for maximum participation in the development process, and to improve the economic base, especially of the poorer sector of the village population. Care needs to be taken that motivators do not get the feeling that they are working under pressure of time, and thus circumvent the slow and time-consuming process of motivating people in order to get quick results. The more people themselves can be involved, even in the identification of needs and potentials, the more they will be able to identify with new ventures.

A first evaluation team composed of persons proposed by the Consortium has undertaken a number of evaluation case studies (*inter alia* in Kalimantan Timor, Sulawesi Utara Tengah and Sumatra Utara in 1978). In its conclusion, the evaluation team was of the opinion that 'it is too early to judge whether these activities will contribute towards advancing self-reliance, social justice, economic growth and people's participation. There are some indications that they do already. However, it has also become clear that many economic, social and, last but not least, cultural factors militate against a quick success. All we can witness to is that in many cases village activities initiated by the motivators have brought about marked changes in the lives of people, and developed a confident spirit in the people that the future is in their own hands'.<sup>3</sup>

A second evaluation mission was undertaken in June 1981 and published by DGI and the Consortium. It confirms the findings of the first evaluation team with carefully worded optimism. It stresses the importance of an adequate policy of withdrawal of motivators which should not be too early. It also explains the importance of the selection of villages and the structure and level of local training centres for motivators. Copies of both evaluation reports are available upon request.

### *Relationship with the Government*

There is a positive relationship with officials of local government and an attempt at cooperation with governmental programmes. In many cases, local government itself recognizes the motivators as pathfinders or as complementary forces for governmental programmes.

There are many instances where the work of the motivators is closely related to governmental services. In Eteng (Sulawesi Tengah) the work of the motivators is linked to that of government agricultural extension officers in a helpful combination of organizational and technical skills. There are also examples of INPRESS/DESA funds being used through the good offices of the motivators (e.g. the bridge at Nunkurus).

The presence of motivators in a village has led on occasions to government development programmes being planned or implemented in the area, for example, the irrigation scheme being planned in the Sesayap province (Kalimantan Timur) or the irrigation canal at Haikatapu. Similarly, a very close relation was observed between the education section of local government and the educational work of the motivator in Batunadua/North Sumatra. The motivator herself thought that she was implementing the government stimulated PKK programme. In the same way, the local Camat and the chairman of the regional branch of the farmers' organization (HKTI) in Petani Jaya stressed the importance of the motivators' work in frontier situations. The work of the motivators was considered complementary to government efforts. This is why the motivator is also being brought into the planning of governmental projects, such as roads and irrigation facilities.

All these are positive developments. The development of villages does not happen in isolation, and one important part of the development work of motivators is to encourage the growth in the villages of organizations which enable people to take advantage of develop-

ment funds offered through government agencies or to seek development programmes through government.

### *Coordination*

The method of coordinating the work of the motivators at regional level varies. Three Regional Development Centres (RDC) were started in Sumatra, Java and Nusa Tenggara Timur (N.T.T.) following the decision to set up Dharma Cipta in 1971. The main tasks of the RDCs include:

- facilitating contact and exchange of experience among the motivators;
- serving as a reference point for problems related to the ongoing work of the motivators;
- engaging in dialogue with churches and government agencies at regional level;
- opening up new possibilities for DC involvement through discussion with all appropriate bodies;
- establishing working contacts with the academic community and development experts, with a view to solving problems in the ongoing work of the motivators.

RDCs are not the only possible pattern of support and administration of the Motivator Programme. Presently, the DC is experimenting with a concept that is less administratively demanding and probably more flexible. In Kalimantan Timur a coordinator is serving the four motivators working in that region. His tasks are roughly the same as those assigned to the RDCs, though the emphasis is on:

- responding to day-to-day problems of the motivators;
- establishing contacts and exchange of experience among motivators;
- opening up new possibilities for involvement;
- contact with the church leadership and representatives of local government.

Support and administration arrangements are left flexible to suit the pattern to the needs of a programme in each area as the main objective is that the programme of motivators in a region is backed up by regional coordination and by a coordination which involves effectively the churches in the region.



## *Action for Development*

The activities of the DC under the heading 'Action for Development' cover in general terms the technical advice provided for motivators, churches and others, and the work of the Appropriate Technology Section. Also included are advisory services to the churches on 'fund raising' and 'stewardship'.

In relation to the motivators' work, staff of the Village Development section frequently discuss the technical aspects of proposed village programmes with the Action for Development staff. The planning and promotion (by motivators and others) of improved techniques (such as the Matahari system of coconut planting) is coordinated by Action for Development. The development of work on fisheries falls to this section: coastal waters is currently under way.

The work of the Action for Development section is interwoven with that of the motivators and Village Development on one hand, and that of Education for Development on the other.

### Notes

- 1) The DC perceives development 'as a process by which both persons and societies come to realize the full potential of human life in a context of social justice, with an emphasis on self-reliance, economic growth being seen as one of the means for carrying forward this process', whilst CCPD-WCC understands it 'as a liberating process aimed at helping individuals and communities to realize their full human potential in a context of social justice and self-reliance. The goal of development is thus liberation from bondage, for building a new social order based on social justice, self-reliance and economic growth ...'
- 2) The motivators are not 'technical specialists'. They are given *basic* technical training in relevant fields, but their main approach to village work is through *people*, and particularly directed to the organizational mobilization of people in their own development.
- 3) Report of the Indonesia Evaluation Team, CCPD-WCC, April 1978, which was published in Indonesian under the title *Motivator Milik Desa*.

## SUMMARY OF DISCUSSION IN COMMITTEE V

### Education

In the discussion on education it was urged that Ivan Illich's contention that no country in the world can afford the school system should be examined. He argued that the economic burdens are too high and the system is so structured that it creates an elite class, as only a few can reach the top. The school system is an instrument of social control and contributes to the passiveness of the population. The rigid curricula and the master-student relationship retard creativity and freedom of thought and expression.

If in present day society the education system is a necessary evil, then equal access for the poor is the key notion; free education, subsidized food and health services, extra tuition, culturally acceptable education, quizzes (examinations) which are not culturally and socially biased are some of the factors to be considered.

### Legal aid

The idea of lawyers serving a compulsory three year-period in a Legal Aid scheme was mentioned; however the commitment of the lawyer was deemed to be a problem. The viability of such a scheme may differ from country to country and the relative advantages and disadvantages must be weighed.

## COMMITTEE VI — NATURAL RESOURCES AND ENVIRONMENTAL QUESTIONS

### ENVIRONMENTAL PROBLEMS AND HUMAN RIGHTS IN THE RURAL AREAS

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#### Human rights and the environment

'Human rights' do not constitute merely an abstract ideal related to concepts of political freedom and expression of individual characteristics. The possession of 'human rights' in the abstract does little good or has little meaning to a person who has no food to eat, not enough clothes to wear and no roof over his head. If human rights are taken to mean the rights of people to realize their human potentialities to the best possible extent, then it is clear that human rights must be related to 'basic needs'. The first human right is the right of people to satisfy their basic material requirements, such as food, nutrition, health, housing and education. The satisfaction of basic needs is all the more a human right (and not just a privilege, less even a subject of charity) because the human race has achieved a level of science and technology which is high enough to provide for the material requirements of every person in the world. The fact that over half of humanity continues to suffer from hunger, malnutrition, poor health, illiteracy and other manifestations of poverty and under-development, reveals that the process of development in the Third World (or even indeed in the developed countries) has failed to solve basic needs problems and therefore failed to realize the human rights and potential of their populations.

Research and discussions on the issue of human rights have till now ignored or neglected the question of environmental deterioration and the exploitation and use (or abuse) of resources. This is a great pity because the two issues are in reality inextricably linked. Man lives as part of Nature, and gains his sustenance from his environment. He takes hold of the natural elements — air, water, land, forest, mountains, minerals, fuels — and transforms these from their raw

forms into the goods and services which satisfy his basic and human needs. Ideally, we should take care to replenish those resources which are renewable (such as the forests), take pains to preserve the quality of those resources which need to remain clean (such as water and air) and use sparingly those resources (such as oil and metals) which are non-renewable.

In practice, these simple rules of ecology are being broken in the most aggressive and irrational ways. The world's natural resources are being depleted and polluted at an alarming rate and extent. This is having the most devastating effect on the livelihood, the living standards and the quality of life of the rural population in South East Asia and the rest of the Third World. Fish stocks are fast disappearing, padi fields and fruit farms being displaced, and grazing land for cattle being taken over for industrial use. At the same time, precious limited energy, biological and mineral resources are being used up mainly for the production of luxury goods, whilst the basic needs of the rural poor remain unsatisfied.

The use and distribution of resources clearly influences the nature and distribution of 'human rights' in any society. If resources are unequally distributed and used wrongly (for instance, in the building of a few luxury mansions instead of sorely needed low-cost houses), then the basic needs of the needy will go unmet, and to that extent their human rights remain unfulfilled. At the same time, the manner in which resources are allocated, re-allocated and used up is determined by the pattern and policies of development in the society. In most countries, 'modernization', 'industrialization' and 'economic growth' have become the catchwords and the main emphasis in the development process. As a result, few resources are channelled towards the depressed rural areas. Worse still, the existing resources (land, water, forests) on which the rural population depend are often taken away from them, depriving them of a livelihood.

### The macro crisis of the environment

It used to be the feeling among serious academics and policy-makers that the Environment was a favourite past-time of freakish environmentalists, nature lovers and prophets of doom. But today, more and more people are coming to realize that the environment crisis is for real, with potentially catastrophic consequences for the world's economy and even man's survival.

The mineral, energy and biological resources in the world are being depleted or destroyed so fast that many imminent scientists

now doubt whether we can survive the current levels of production and exploitation. In his recent book, *The Twenty Ninth Day*, Lester Brown, Director of the Worldwatch Institute, documents in detail the way in which the biological support systems of the earth are rapidly breaking down.

The *croplands* of the world are diminishing as they make way for urbanization, road construction, industrialization and other non-agricultural uses. Apart from this loss of cropland, soil erosion on remaining cropland is reducing land productivity. Furthermore, man-induced changes in the weather, population pressure and improper grazing are causing the world's deserts to expand. In the past, the rising demand for food could be met by bringing new land under cultivation or through additional fertilization. Now however, most prime agricultural land is already producing and in many countries where forests or marginal land have to make way for agricultural production, the long-term ecological consequences may be disastrous. As regards to fertilizers, the rising cost of oil has pushed the price of fertilizer beyond the buying capacity of most Third World farmers and in America, many American farms have reached the point of diminishing returns with fertilizers.

*Deforestation* is progressing at an incredible rate such that most of the Middle East and North Africa and much of Continental Asia, Central America, and South America are virtually treeless. In Brazil today, the Amazon is being plundered. One-third of its 3,200,000 square kilometres of tropical jungle has already been hacked off to make way for giant ranches which produce meat for the American market. Two-thirds of Asian forests are already gone and in Malaysia itself, our forests will be able to hold out for only another ten years. By the year 2000 AD, tropical moist forest will largely have disappeared from the face of this earth. Moreover, it has been found that atmospheric pollution lowers the growth rates of trees significantly. One US study reveals that trees produced only one-fourth as much lumber between 1944 and 1974 as they did from 1910 to 1940.

The *oceans* have become a dumping ground for staggering amounts of industrial, agricultural and household waste, many of which are highly dangerous. Many great rivers and seas have become sewers. On top of this, overfishing by mechanized vessels have depleted the fisheries resources in the North-west Atlantic, the Peruvian Seas, Japan, and other areas. Today, the combination of overfishing and oceanic pollution combine to threaten aquatic contributions to human protein needs.

*Grasslands* which produce the energy to till one-third of the world's crops, as well as fattening animals for slaughter, are also being nibbled away. 'Overgrazing is not new', Brown writes, 'but it is now in evidence to some degree on every continent. Deterioration which once took centuries is now being compressed into years.'

Besides the biological systems described by Lester Brown, mineral and metal resources are also fast diminishing. The Club of Rome book, *The Limits to Growth*, carries the gloomy forecast that reserves of aluminium would last for 55 years, tungsten 72, lead 64, zinc 50, nickel 96, cobalt 148 and tin 61. The book warns that unless immediate steps are taken to curb the use of these resources, industrial civilization would collapse within decades. Scepticism and disbelief greeted this book when it was published in 1972, but the oil crisis has made its spine-chilling scenario seem much more real. Although the figures in this book are controversial because of the ever-changing knowledge on reserves, supply and demand, it is undeniable that at least some key metal resources will be running out in the not-too-distant future, even if the day of depletion is postponed by new discoveries. The basic message is clear: by definition non-renewable resources are exhaustible and man possesses sufficient technological and economic capacity to completely exhaust many of these resources in a relatively short time.

The running out of oil and other critical resources need not have taken place at such a rapid rate. But in the obsessive pursuit of economic growth measured by the Gross National Product (GNP), the increased production and sale of goods and services became the main focus of almost every government's activities. Unfortunately the benefits of this oil-fuelled growth have not been equitably distributed. The developed countries with 20% of the world's population use up 80% of the world's resources every year. Much oil is now being used up in the production of luxuries while the basic needs of the poor majority remain unsatisfied. This irrational distribution of world resources is highlighted by the fact that American women spend more on cosmetics each year than the combined budgets of African governments. Thus the same physical and manpower resources which could have gone into feeding hungry millions in the poor part of the world went instead to the artificial beautification of a minority in the rich part of the world. Given the high technological level and productive capacity of the developed countries, the economic problem is not one of producing enough but one of selling or marketing products to people whose basic needs have already been long satisfied. And so the 'consumer society' was born,

a society in which economic growth and the personal possession of more and more fashionable goods became the be-all and end-all of life's motivations.

All these developments have their effects on man's quality of life and ability to survive. These are the seeds of the severe problems of food shortages, starvation and malnutrition, land shortage, loss of livelihood of groups such as fishermen and farmers, loss of employment, increase in health problems, inflation of prices, and so on.

While the environmental problem has already reached crisis proportions in the developed countries, it has even more devastating effects on developing countries. These developing countries have not yet even reached the high production and consumption levels of the west, and yet their resources are already equally or even more depleted than those of the rich countries. Worse, the resources of the Third World countries are often rapidly depleted precisely for the benefit of the already developed countries. Just taking fish as an example, we find that fish is being caught by giant Canadian-owned fishing vessels in the South China Seas Fisheries Project being run under FAO auspices, and most of this fish caught in the South China Sea is exported to the rich countries. An increasing proportion of fish caught in Malaysian waters ends up in other countries, either as fresh fish or processed fish meant as fertilizer or feed meal for animals in the rich countries. The United States is buying 700,000 tonnes of protein-rich fish meal from Peru and Chile to enrich cattle and pig feed; this would supply enough protein to satisfy the needs of 15 million people each year. These facts are significant, for fish forms an overwhelming proportion of the animal protein intake of the poor majority of developing countries; yet such a large part of fish caught in these poor countries are exported to the rich countries mainly to feed their livestock.

In Malaysia the environment crisis is also deep and its most important aspects are rooted in the abuse of our biological resources.

The major rivers and seas in the country have become so polluted that few marine species can survive in them. The problem is compounded by the increase in mechanized fishing methods which not only overfish but also destroy the breeding grounds of the fish. The consequent reduction of fish catch and the explosive increase of fish prices have threatened the livelihood of traditional fishermen while causing great stress to consumers who principally rely on fish for their protein intake.

Water pollution affects not only fish life but also the health of the millions of villagers who rely on the rivers for bathing, washing and drinking. Today, millions of tons of oil palm and rubber effluents, industrial effluents, and raw sewage, are dumped into the rivers, turning them into sources of illnesses and disease. In the recent cholera outbreak, it was found that several major rivers in various states were contaminated with cholera germs.

At the same time, the forests are being logged for timber at the rate of one million acres a year. This is proceeding despite numerous prophecies even by top government and forest authorities that there will be no more timber left within 11 years. The rapid deforestation has disastrous consequences not only on the potential acute shortage in timber that will soon occur, but also on the removal of topsoil, soil erosion and silting of rivers, reduction of water intake at logged catchment areas, and floods both in cities and the countryside.

Moreover, negative climatic changes are bound to occur as a result of such massive deforestation throughout the country. The present paradoxical coexistence of drought and floods can be related to deforestation, soil erosion and silting.

Besides the above, there are also severe environmental problems caused by air and dust pollution; landslips especially at mines and quarry sites; traffic congestion and other aspects of the urban environmental crisis.

The environmental crisis is by no means confined to Malaysia. It has also had disastrous effects in Thailand, and this has been officially recognized by the Bangkok Bank. The Business Times of 15 September 1978 had the following news item on its front page:

**'THAILAND HEADING TOWARDS DISASTER,  
WARNS BANGKOK BANK'**

'In its half-year report, Thailand's Bangkok Bank bluntly warned today the country was heading towards disaster unless it ended wasteful exploitation of natural resources and the growing income difference between the rich and poor.

The report cited destruction of Thailand's once enormous forests, wasteful mineral exploitation beset by smuggling, overfishing and illegal fishing with explosives in Thailand's once bountiful coastal waters as other examples of the problem.



This wasteful exploitation of natural wealth has increased the income disparity between city and country people, and sent desperate farmers off their land to seek work in the already overcrowded cities, it said.'

### **The grass-roots environment crisis**

Whilst the resource and environmental crisis at the macro level has its serious long-term implications on the whole society, large segments of the rural population are already experiencing serious dislocation of their traditional economic activities as a result of environmental problems and the ill-effects of development projects. This is shown by the three case studies below.

#### *The fishing crisis and the case of Kuala Juru*

In Malaysia, as in other South East Asian countries, hundreds of small-scale fishermen's communities are being threatened by the threats of pollution and trawler invasion. The disappearance of fish in rivers and the seas has caused a decline in fish catch and income for the small fishermen.

The small fishing village of Kuala Juru in North-West Malaysia is probably the best publicised case of a fishing village which was almost polluted out of existence. Situated near the Prai Industrial Estate, the river flowing through the village suffered from the dumping of industrial effluents from some 100 factories to the extent that nearly all fish life disappeared. The monthly incomes of the fishermen fell from \$350 to only \$80 and many children had to forgo their schooling. What this collapse meant for them is reflected in the cry from the heart of Pak Salleh, one of the Juru fishermen. He said: 'I am not against progress. I am not against factories coming up. But why is the planning so bad? Why allow the factories to pollute the river? Surely they know our village is here? At the mouth of the river? Surely they know we depend on this river for survival? We are fishermen. What can we do now?'

Fortunately the Juru story has a rather happy ending. With the help of CAP, the fishermen made representations to the state authorities and publicised their plight in the mass media. The pollutants have not been stopped but are now directed to flow straight into the sea instead of through the river. The fishermen in the meantime formed themselves into a cooperative and started a cockle (shellfish) cultivation project, which has proved very successful. This shows that if a village is determined enough, it may be possible

to overcome obstacles and manage their own self-reliant form of development. But for many other fishing villages, the problems remain. It is very clear that 'modernization' in the form of trawler boats or polluting industries is accorded top priority, and the traditional fishermen are being asked to suffer the 'inevitable' side-effects.

### *Highway project affecting livelihood of thousands of people*

Because of the construction of a bridge linking Penang Island to the mainland, more traffic is expected on the island. This resulted in the planning of a new highway to be constructed on reclaimed land off the shoreline, for a distance of some ten miles. The highway project will have serious repercussions for some 50,000 people who live on the coastal area, many of whom are dependent on traditional economic activities stretching back several decades or over 100 years in some cases. Among the people affected are the 2,000 to 3,000 workers in the ten small shipyards on the foreshore area which are forced to stop operations because the land is being taken over for the road. Several fishing communities are also being affected because of blockage of accessibility to the sea. Traditional charcoal and firewood manufacturers dependent on the sea-way and the river will also find their transportation route blocked. Many houses on the foreshore area have also been given notice to evacuate to make way for the road. Despite a petition campaign by the affected villagers and residents, there is no plan to scrap the highway project.

This case study shows that in the haste for 'modernization', no proper consideration is given to the social and economic consequences of a prestigious highway project. As far as is known, no comprehensive studies were carried out as to the number of people whose residence or livelihood would be affected by the highway, nor were any cost-benefit analysis conducted. The alarming conclusion is that in this case, precedence was given to motorcars and motorists over the interests of thousands of poor people living in communities which have been in existence for generations.

### *Cattle rearers running out of grazing land*

In Penang and elsewhere in Malaysia, the small cattle rearers are facing all sorts of problems, the main one being the disappearance of grazing land for the cows. In Penang, the extension of the airport ate into the grazing land of many cattle rearers. They were resettled in areas where there is very little grassland or water. And that is why we often see cows being herded on the roads, feeding

on the little grass found along the sides of the roads, and sometimes blocking the motorcars from moving on the roads.

Often, the cattle rearers are brought to court and cows too are detained because of the public nuisance they cause on the roads. If the cattle rearer cannot pay the fine imposed by the court, he may go to jail for a few days. Even after release of the cattle rearer and his cows, what can he do but continue to seek for grass on road-sides or vacant land for his cows, and risk arrest again? As a result, the production of milk and beef has dropped. It is now increasingly difficult to get fresh milk from the milk vendor these days.

So it is all very well to urge cattle rearers to improve their milk and beef production but how can they do so when their grazing land is taken away, when cows have to fight cars on the roads to chew hungrily on the little bits of grass on the sides, when they keep having to pay fines in court?

One cattle rearer who was evacuated from his land was Satpal Singh, who related his experience thus: 'Previously I had over 50 cattle with abundant grazing land. Following the eviction, I had to find an alternative grazing site for the cattle. The grass there is poor and covers a much smaller area so I had no choice but to sell the cattle until I had only 23 left.'

Satpal erected a shed for his herd just outside the airport. He is not allowed to erect any concrete structures or use any new planks for the shed as the authorities said that he was only occupying a temporary lot. He wakes up at 5 every morning to milk the cows under the light of a kerosene lamp. Electricity is not provided despite his repeated appeals.

He added sadly, 'I have to stay here most of the time tending the herd. My family lives at Permatang Damar Laut and I can only be with my two children two hours a day. Moreover I only earn around \$90 a month compared to \$400 previously.'

The government promised that on eviction, the surrounding grassland lying immediately outside the airport would be made available for his cattle to graze. However the area was finally turned over for vegetable cultivation. The present grazing site is a disused padi field, half a mile away from Satpal's shed.

'For two years,' Satpal recalled, 'the cattle have had no access to water. I applied for permission through the State government to install a water pipe but the officials told me that they cannot do anything because the land belongs to the Federal Government. The Federal Government in turn said that the land is under state

jurisdiction. Why are they trying to evade the whole issue?' For two years he had to carry water from the airport construction site for his herd. He continued, 'Surely the government must know that these pitiful animals need water to survive. How can they be so cruel as to let the cattle die of thirst?'

The future for Satpal and his cattle does not look promising. Sadly, he pointed across the field and remarked, 'We may have to move. This land has already been earmarked for housing development and work is expected to start this May. My cattle will then have no more grazing land.'

There are many like Satpal Singh who have to pay a high price for progress. But the important question is: Does Penang really need an international airport? The greater influx of tourists into this island will in turn generate further problems. The development of more facilities and resorts for the tourists will be at the expense of the livelihood of our local people. Our deteriorating beaches will continue to be eroded and polluted with the construction of more beach hotels.

For more than 200 cattle rearers in Penang it has become more difficult to provide their cattle with suitable grazing land. Development projects in the state are also gradually using up grazing land for cattle, making cattle rearing a dying occupation.

## Conclusions

The issue of human rights should be linked directly to the satisfaction of basic needs. In many developing countries, the basic needs of the rural population are far from satisfied, whilst traditional economic activities are being disrupted by environmental problems and development projects which promote the construction of roads, high-rise buildings and housing estates.

In the allocation and utilization of resources, the interests of rural communities are often placed on low priority and have to be sacrificed in the name of economic progress.

The inevitable question should then be raised as to what sort of development is being promoted if the people in whose name development is being carried out are to suffer from it? As Prof. Dudley Seers from the Sussex Institute of Development Studies once put it: 'Development of what? Development for whom? Development by whom?'

The human rights of rural communities cannot be said to be upheld or promoted if their need for a steady livelihood is not

recognized or respected. Thus, given the steadily deteriorating position of many rural communities resulting from environmental problems such as river pollution and deforestation, and eviction, lawyers and others involved in human rights issues should begin to focus their attention on the impact of environmental problems on human rights.

The following steps need to be taken if the situation is not to deteriorate further:

- The predominant development strategy in Third World countries should shift from maximization of economic growth to the satisfaction of basic needs of the whole population;
- The present over-dependence on economic policies based on the depletion and exhaustion of natural resources (e.g. over-rapid exploitation of oil, forests, etc) should be greatly reduced. Instead there should be a policy of resource conservation and rehabilitation;
- All development projects should undergo an environmental impact assessment. Projects which cause damage to the environment should be revised or rejected;
- Development projects should also be made to undergo a social-economic impact assessment to determine if there will be negative side-effects such as displacement of houses, dislocation of economic activities, and health problems. These social and economic costs should be carefully weighed against the benefits to be brought about by the projects. Again, it should be considered which groups of people benefit or lose out as a result of such projects. Needless to say, development projects should be biased in favour of the poor.

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AN ENVIRONMENTAL ISSUE:  
THE URBAN-WESTERN BIAS AND THE  
CASE OF THE WESTINGHOUSE  
NUCLEAR POWER PLANT

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Nuclear Free Philippines Coalition

Natural resources and environmental questions have become an inseparable component of any discussion regarding development and for many good reasons. Destructive consequences that have followed many so called development efforts like the plague have made people realize that natural resources and the environment form the basis for development. To use an analogy, natural resources and the environment is the goose that lays the golden egg. Too often, development has been measured in terms of the number of golden eggs produced per unit time or to use the economic terminology, in GNP or Gross National Product, without considering what it had entailed for the goose or the environment to produce them. The result of this perspective has been greater poverty rather than improvement, a bitter lesson that enlightened many to the fact that development is synonymous with environmental protection.

The idea, however, that the protection of natural resources and the environment is a basic human right has not caught fire as fast as that of the idea of its being the basis for development. Perhaps this is because many people have the misconception that human rights extend only to humans and those which affect humans directly. Thus to kill people, or to suppress their freedoms of speech and association will be easily considered as human rights violations. But to pollute the air and waters, deforest mountains and destroy the land are not so easily seen as violations of human rights.

There is really little difference between killing people with guns and killing them with a slow but surely fatal poison, or lingering poverty arising from a degraded natural resource base that destroys not only their flesh but their spirits too. The question is not whether the end will come with a bang or a whimper. A whimper is bad enough. It may even be worse.

The confusion as to whether environmental destruction is a violation of human rights applies especially to resources that are public, or are common properties of no distinct and easily identifiable

individual or groups of individuals. In many ways, the bias of existing laws in mitigating damage to private properties over that of common properties have contributed to this confusion. This bias becomes more problematic for rural folk, especially cultural minorities, who consider natural resources as common properties, the use of which are controlled and protected by long standing traditions. The influx of legalistic, urban biased laws that place private rights over traditional common rights leads to conflicts in which the odds are against the rural folk who do not understand or want the changes brought about by these laws.

There are other differences between rural and urban based populations that put urbanites in a position of advantage. Policy-makers are in urban areas, and so are the most politically sophisticated and involved individuals. Rural folk, on the other hand, are far from these policy-makers, not only because of physical distance but also because of social, economic, and cultural differences. There are also many rural areas where the people are so brutalized by poverty that they have begun to think of their situation as hopeless and themselves as powerless to effect change. Their projection of time is on the basis of day to day survival, thus preventing their active concern over issues whose effects are long term or are not flagrantly evident. All of these have led to urban biased policies and development efforts and a neglect and lack of concern for the welfare of the rural poor. Thus, a highly polluting sintering plant or a very dangerous nuclear power plant is situated in rural areas without qualms, even if it necessitates costly and painful dislocation of residents as long as it is far enough from cities for its adverse effects not to be felt but near enough for city people to enjoy its benefits.

The welfare or 'property' of urbanites are considered paramount over that of rural folks. This has led to a lack of a holistic perspective that considers interactions and interdependence among all sectors within the whole system.

Various sectors believe that a fanatical adherence to private property and private rights is not an indigenous Asian value. The Asian puts cooperativeness over individualism. In the rural areas of the Philippines, this is still seen in the 'bayanihan' practice where all villagers join together in the performance of tasks that are beyond the capability of any one individual to accomplish. Asian countries, however, in one way or another, have been under the direct rule or indirect influence of Western nations. Those natives who were able to relate and adapt to this situation were the ones who prospered and became the governing or policy-influencing groups.

In this way, Western values were internalized and became part of existing policies and laws. Through the years, this was further strengthened through the educational system either by fitting the educational system within the Western concept or sending future leaders as scholars abroad. All these developments naturally centred in and around urban areas.

It should be emphasized and made clear, however, that private property is not bad in itself. The problem is when there is too much of it, and when one becomes infatuated with the idea that private property is the only type of concern worth considering. Then there is no room for sharing common resources such as mountains and forests, seas and rivers. One will not have the right any more to enjoy mountain climbing without paying a fee, or swim from beaches without buying club membership in beach resorts. Such thinking will also result in lack of concern for the degradation of public natural resources. There develops the attitude, 'I am not going to do anything about it. It's not mine'. Indifference to issues where the basic human right to a healthy environment is violated is maintained.

Two important aspects make the destruction of natural resources and the total environment a greater crime against human rights. One is because it affects so many, the poorest and deprived worst of all. Another is that it negatively affects not only the present generation but future generations as well, with the future generations taking the full brunt of accumulated destruction.

The poor and the deprived are the most vulnerable whenever the productivity of natural resources or the quality of the environment is lessened. And most of them are in the rural areas; the cultural minorities, the farmers, the cottage industry workers, the fishermen, and as export processing zones sprout in the countryside, even the small workers of giant multinational corporations. Unlike their richer, more fortunate brothers in the cities, they are tied to the land and the waters. The rich have the wealth to pay for mobility and buy the technology to buffer whatever adverse effects may arise from environmental degradation. As farmers put it, 'The rich do not care what happens to the land. They can easily go to other places and buy other pieces of land. But what about us. The small pieces of land we have now are the only property our fathers and their fathers had. This is the only wealth left to us. Destroy the land and we too will be destroyed.' Others even exaggerate to say that even if the whole country is destroyed, the rich do not care because they can easily move to other countries. To the rural folks who



have not even gone beyond the boundaries of their villages, this type of escape is an impossibility.

In many instances, technology can be utilized to augment or mitigate effects of environmental degradation. Polluted city air affects less the passenger of a closed air-conditioned car than that of a jam-packed, open and slow moving jeep or bus. Even such basic technology for controlling the spread of disease as a water sealed toilet is beyond the means of many of the poor. And while managers work in the best of offices, small workers sweat it out in the worst of factory conditions. The effects of environmental degradation, therefore, are not actually 'democratic', for they affect the rich in the urban areas and the poor in the rural areas in unequal degrees.

This situation of differential effect is coupled with that of the differential capability of the rich and the poor or the urban and the rural-based populations to benefit from development. The rich, because they have the initial capital, the formal education, the necessary contacts and the entrepreneurial skills, can make use of opportunities opened up by development much faster than the poor can. In the process, the poor are left without even a trickle. Development efforts ultimately result in just increasing the gap between the rich and the poor.

Unfortunately, the poorer a person becomes, the more he forces the natural resource base to produce more to satisfy his needs. Thus, the landless are forced to go to the mountains, cut the forests and establish their swidden farms. These steeply sloping farms when forced to produce crops similar to that of fertile lowland farms can only be productive for about two years. Then, because of erosion, it becomes a barren infertile grassland. There is the vicious cycle of poverty leading to destruction of natural ecosystems, which in turn leads to greater poverty and so on until the whole system collapses. But who is to blame for this? The man who in his poverty was forced to destroy his natural resource base, or the system that has caused his poverty? Environmental questions must go deeply beyond effects and into roots of problems and their answers cannot be simplistic.

Such questions will be asked and must be answered now and in the future. Questions in the future will most likely be more critical as the accumulative effects of environmental mistakes pile on top of each other. Trends show that through the years, natural resource depletion and environmental degradation alarmingly increases not only on a straight arithmetical rate but at an upward loga-

rithmic pace. Many effects which are now only on the nuisance scale will be life or death issues in the future such as the increase in mercury content of bodies of water, increased background radiation from nuclear plants and their radioactive wastes, increasing carbon dioxide in the atmosphere due to rapid burning of fossil fuels, and many others.

To make things worse, poverty will be expected to follow the worsening situation of the total environment. The question is whether it is morally right to dump our dirt and poison for future generations to clean up (if they still can) and overexploit our present resources and leave them with none. Should not development also consider them? Do still unborn humans already have human rights that must be considered here and now? Environmental questions, therefore, extend over time.

Environmental questions also extend beyond the boundaries of nations. Whereas before, each country had its own unique internally caused environmental issues, now these issues have grown to international proportions. In South East Asia, these issues are not only internally caused but arise from external factors or influences as well. Thus, in the Third Philippine Environmental Congress held on 6-9 November 1981, imperialism and neo-colonialism was specifically identified as primary forces that have led and are still leading the Philippines into various forms of social, cultural, political and economic poverty, consequently leading to the misuse and over-exploitation of natural resources and acceptance of destructive and dangerous technologies. The idea, however, is not recent nor unique to the Philippines, for as early as 1972 the Asian Environmental Society had this to say:

‘..... there are fears that the new theme of international environmental issues is just a ‘cover-up’ for the failures of the development programmes and the international interplay of forces that perpetuate the disadvantaged conditions of the Third World. If environmental issues are to be equated with developmental problems, then the questions raised in the Third World countries would be categorically different from the general directions being pursued in environmental debates in the industrial countries. A different and new breed of environmentalists is needed from the Third World. Problems confronting the environmentalists of the Third World today are not the by-products of affluence but of poverty; not the symptoms of over-consumption, but the sufferings of under-consumption. They cannot cry over the dying lake, but weep for the dying *Homo sapiens*; they cannot be concerned with the doses

of DDT, but with the eradication of diseases. Their worry is not the smoking chimney, but concern with the vast numbers of jobless people; not a question of clear water, but of obtaining higher productivity from the water. Their advocacy is not of consumerism, but of the struggle against imperialism. The problem is more of survival than of aesthetics.

'In most Asian countries, the result of three centuries of colonial rule and a series of wars has been societies of few urban, educated rich, and many rural, uneducated poor. These wars have destroyed millions of lives and the living environments in some countries, but also have created in some other countries the so-called 'show-cases' of Asia. The superficial affluence of the 'show-cases' has limited distribution effects, intensifying the existing disparity in standards of living and economic well-being between the privileged and the populous within and beyond a country.

'The prevailing corruption, confounded with the degradation of the environment by wars, has accelerated the vicious cycle of poverty being experienced by Asians. The domestic exploitation of the poor by the rich is compounded by the structural imbalance of the international system. The economic pressures, combined with the iron hand of the military, suffocate the people. These forgotten rural masses and the urban working classes are the heart of Asia.

'The identification of the scientific and technological means to improve the physical environments is of great value, but economic progress and social justice, too, must be developed and spread equally throughout the population. The demand is for an enlightened leadership together with effective public participation at all levels of decision-making. To cope with the problems of the environments in the Man-Nature system would be useless were we not to confront, as well, the Man-Man system.'

Realizing the magnitude of the task at hand to resolve environmental issues, various organizations in the Philippines decided to unite and coordinate with each other resulting in the formation of the Philippine Federation for Environmental Concern. Two of the primary principles of the Federation reiterate the interconnection between environmental issues and development and human rights issues. The first principle states, 'A healthy environment is a basic and inalienable human right.' All member organizations are unanimous in the belief that the right to live, not only as a breathing, metabolizing and reproducing animal species but as fully productive and creative humans, is a basic right. Necessarily, this cannot be done in a destroyed environment. The second principle then states that,

'Development must be in harmony with the environment'. Material production is necessary but not at the sacrifice of nature's legacy and capacity to provide sustained provisions for human needs.

Knowing that environmental problems affect all, especially the poor, the Federation for Environmental Concern has added in its principles the condition that environmental actions must be performed collectively and should be the task and responsibility of all Filipinos and not the monopoly of the elite academic and professional groups. Through participation, organization and mobilization in the resolution of environmental issues, the poor and the rural folks can move away from miseducating abstractions of their rights into more concrete forms of understanding them. Fighting for one's rights deepens the internalization and broadens the understanding of such rights. Human rights and development must accrue to all. So must all protect and fight for them.

The law always looks for, examines, and cross-examines the proof before decisions are made. The objective of the preceding discussion was to provide a background and an understanding of the underlying factors giving rise to environmental problems in South East Asia. Proof of the validity of the ideas and concepts presented (specially the radical ones) will now have to be given. The nuclear power plant issue now raging in the Philippines provides a concrete example of an environmental problem resulting from an urban-Western bias. Around this issue was formed the Nuclear-Free Philippines Coalition, an umbrella organization of environmental, consumer, civic, religious, worker, farmer, student, and professional groups fighting against nuclear power. The struggle of the Nuclear-Free Philippines Coalition provides concrete experience of how such an environmental issue can be met.

### **The nuclear power plant issue**

The decision to construct the Philippine Nuclear Power Plant No. 1, or PNPP-1 as it is officially named, is an undeniably biased one. It was not the decision of the Filipino people. It was a decision of weakness on the part of a few local elites with similarly vested interests as the U.S., which exerted strong political and economic pressures on the country to import an unwanted technology. With loans and sweeteners provided by the U.S. Export-Import Bank, Westinghouse is exporting their dangerous technology that Americans in their own country will never accept, a similar strategy of dumping that advanced countries do for other products such as banned drugs and other chemicals. To recoup and profit from their investments,

the U.S. and Westinghouse are sacrificing Filipino welfare and safety for the sake of corporate survival.

If the world is a nation, South East Asia with its poor, agriculturally based nations can be likened to the rural area and the advanced, highly industrialized Western nations to an urban area. The dumping of unwanted and dangerous technology such as the nuclear power plant in the Philippines can therefore be seen as an 'urban-Western bias'. On the specific level of a country such as the Philippines, this bias is also evident.

Power from the nuclear power plant will not go to light houses of farmers and fishermen. And electricity cannot be used for planting rice or catching fish. If it is for amenities such as household appliances and gadgets, these are luxuries that are beyond their capability to buy without drawing away scarce financial resources from the more-necessary basic needs. Furthermore, electrical needs of rural populations can be provided by other cheaper, safer, and cleaner ways such as dendrothermal power plants.

The true purpose of the nuclear power plant being built in Morong, Bataan is to provide electricity to the Bataan Export Processing Zone and the U.S. Subic Naval Base which need concentrated forms of power. It would have been all right if these establishments benefit the country, but they do not. The Bataan Export Processing Zone and all such other zones seemingly provide industrial development but actually do not. Cheap Filipino labour, mostly from the rural areas as these zones are located in these areas, are not allowed to organize unions or strike, and are exploited to produce goods and products that satisfy foreign and urban tastes and are not needed, unless artificially induced through brainwashing advertisements, by the Filipino masses. Studies have also shown these export processing zones to be a haven for transnational corporations that compete with and siphon away local capital from local industries, and repatriate to their own countries enormous profits raised from the resources of the Philippines and the sweat of Filipinos. The U.S. naval base in Subic, on the other hand, like all U.S. military bases in South East Asia, do not in any way protect their host country but rather unwittingly involve the country as a pawn in the big power's nuclear game. The presence of a foreign military base makes a mockery of the host country's sovereignty, and forces the country to align its foreign policies to that of the big power. Again, the balance of benefits is very much biased towards the West.

As if these are not enough, Westinghouse exerted all efforts to profit financially from the nuclear power plant export. Westinghouse

first offered to build two 600 MW reactors for \$500 million, but when the letter of intent was signed on June 1974, Westinghouse jacked up its price to \$1.2 billion for two reactors. Not yet content it again changed its terms to \$1.1 billion for one reactor and \$1.6 billion for two. On the unfairness of the deal, Export-Import Bank cavalierly commented that they will do nothing about it because if the Philippines is being fooled by Westinghouse, then it is the fault of the Philippines who must then pay the price for being a fool.

This experience, unfortunately, has not prevented the country from being fooled again, thus making more likely the allegations of collusion between Westinghouse and local officials involved in the project. When the investigations of the Puno Commission (set up because of public pressure created by the Three Mile Island nuclear accident) found the nuclear power plant unsafe and concluded that construction should not resume unless additional safeguards measures are put up, this only became the reason for again jacking up the price to \$1.9 billion in a renegotiated contract. To add insult to injury, it was found that the listing of 146 additional nuclear safety measures in the renegotiated contract was grossly exaggerated. One hundred and two of these should have already been incorporated in the original Westinghouse-National Power Corporation contract. Of the remaining 44, only 20 are mentioned in the new contract and some of them, like that referring to steam generator corrosion, are mentioned only for the purpose of saying that they will not be met. Westinghouse, therefore, is clearly not providing all the safety features it is required to provide in the U.S. and yet has demanded an additional \$700 million for such irresponsibility. The Philippines is now constructing the most expensive nuclear power plant in the world, built by an American corporation, but which the U.S., because of its strict safety regulations and the many design flaws of the plant, in no way allows on its own soil. Yet the U.S. Nuclear Regulatory Commission, in the midst of protests and petitions for denial, still gave Westinghouse a nuclear export permit. This gives evidence of the callous and often discriminatory partnerships between governments and transnational interests.

There are other economic pitfalls associated with the nuclear power plant aside from the \$1.9 billion construction cost. If the nuclear power plant is made operational, the Philippines will have to spend an additional \$24 million for the initial load of 600,000 pounds of uranium and \$180 million for the yearly 150,000 pounds for reloading. These costs will most likely increase as uranium supply and prices are also controlled by a uranium cartel. Experience in the

U.S. also shows that Westinghouse plants regularly break down requiring months of repairs and costing as much as it does to build them. Approximately 30 tons of radioactive waste will be produced every year. At present costs, reprocessing of this waste alone will require \$20 million a year and this does not include handling, transportation and storage. If the plant lasts to its 30 years' lifetime, it will have to be 'decommissioned' (buried in one big mountain of cement or removed piece by piece and stored in a nuclear burial site) at a cost also as expensive as building it. Add to all these the cost of maintaining and guarding the decommissioned plant and its radioactive wastes for hundreds of thousands of years. All these for less than 5% of the electrical power needs of the island of Luzon?

The effect of these costs on a near bankrupt economy will be devastating. The country will sink into deeper indebtedness and will become more and more dependent on the U.S. This can be used as leverage, and will make the country in effect an economic satellite and consequently also a political satellite of the lending country.

The capital could have been more properly used for more productive efforts and for meeting the basic needs of the country's poor. But again, the poor was sacrificed. No one feels this sacrifice more strongly than the residents of Morong, Bataan, the site of the nuclear power plant.

Siting of the 620 MW Westinghouse nuclear power plant was done without consultation with the affected residents as they are, in the words of the head of the Philippine Atomic Energy Commission, merely "simple folks". The National Power Corporation, on the other hand, maintained the belief that being a government project and with a crisis government existing in the country, there is no need to convince the people about the necessity for the undertaking as there would be hardly any opposition to it. This was evidenced by the expropriation of private lands without an associated public information programme. There were 36 households, a total of 184 persons that were uprooted. Aside from this, crops and fruit trees were bulldozed and grazing lands for cattle and water buffalo were expropriated. Then erosion from the construction activities silted fish-spawning grounds and, with National Power Corporation restrictions on fishing and seafood gathering, caused hardships to the population which is 80% dependent on fishing.

People unaffected by the expropriations are also apprehensive. As expressed by a Morong peasant, 'Since the town is near the nuclear plant site, we might also get relocated. If so, where shall we get the livelihood to support our children?' This concern and appre-

hension is now being shared by the surrounding populations, even those in Manila. In normal operation the nuclear plant will be regularly emitting radioactive wastes at supposedly safe levels. But studies in the U.S. have shown an alarming increase of cancer cases amongst populations around nuclear plants. The possible occurrence of an accident is also cause for apprehension. Though a nuclear power plant will not explode like a nuclear bomb, its destructive effects are similar in the event of an accident. A 620 MW reactor core contains about nine billion curies of radioactive materials after sustained operation and an accident can release this into the environment. Based on the assumption that all people within five miles of the reactor and all people downwind for 25 miles are evacuated within a few hours, which is an almost impossible feat, studies conclude that 3,300 people will die due to radiation within a few weeks or months, 45,000 due to cancer in the following 10 to 40 years, and a quarter of a million cancer cases which will need proper medical attention will result. About 3,000 square miles of land will virtually become a wasteland, uninhabitable for thousands of years. For rural populations that are dependent on agriculture and fishing this is unthinkable.

The chances, however, of an accident occurring is very high. The Union of Concerned Scientists has listed 200 major technical problems associated with it. The Puno Commission has admitted that it is an obsolete 1973 design that does not include more than half of the safety measures learned in the Three Mile Island accident which U.S. nuclear plants are now required to add in their designs. There is as yet no successfully operating 620 MW nuclear power plant in the world, meaning that no one knows whether the nuclear plant Westinghouse is building in Bataan will work properly. To make matters worse, the site of the plant itself is at the foot of Mt. Natib, a volcano sharing the same lava bed as the very active Taal Volcano with the great Manila trench only about sixty miles from the Bataan coastline and a major earthquake faultline running through the province 20 kilometres from the site. Accidents can also occur through the spillage or leakage of radioactive wastes which remain deadly for hundreds of thousands of years and for which no technology has yet been devised for permanent and safe disposal.

It is only natural that strong opposition against the nuclear power plant project with all its attendant problems and dangers will develop. Realizing the very close relationship between nuclear power plants, nuclear bombs and military bases, opposition has been extended to include the latter two aspects. The struggle is difficult in many ways. There were and still are various types of harassments,



denials of requests for information, lies, and the prevailing fear. This further supports the contention that highly capital intensive projects such as nuclear power plants endanger civil liberties and human rights. In the desire to protect and profit from their enormous investments, the transnational corporations in partnership with local powerful elites will do anything to reach their goal. People's lives, welfare and safety are simply shoved aside.

In face of formidable difficulties, people often asked whether the anti-nuclear campaign is an exercise in futility or to use a common term, 'banging one's head on the wall'. The Nuclear-Free Philippines Coalition does not think so.

First, the nuclear issue is not simply a nuclear issue. To look at it simply on its technical aspects is to be blind to the realities of South East Asia or the Philippines to be specific. The problem goes deeper into the social, cultural, economic and political fabric of Philippine society. How can one explain the acceptance of such a destructive technology by some Filipinos except in terms of a pervading colonial mentality arising from a colonial past and a continuing system of miseducation. How can one explain the weakness of the country to say no to such a technology, except in terms of its economic and political dependence on its former colonizer. Thus the nuclear issue is not the problem itself but is the manifestation or the symptom of a bigger and deeper one. Nor is it a new issue but is in fact the effect or product of a continuing neo-colonialist policy.

Secondly, the nuclear power issue is part of a continuing people's struggle for justice and freedom. Not just of a few do-gooders. The ultimate victory lies not in the stoppage of the nuclear plant's construction, but in the wakening of the people's consciousness that they are not alone and powerless, that they are potent forces in the shaping of their history. The realization by people, especially the poor and the oppressed of the rural areas that they are the ones that can decide their development is one of the modest gains of the anti-nuclear movement.

Conflicts arise when development planners and policy-makers refuse to consider the goals and aspirations of the masses of people in the rural areas in their frenzy and hurry to copy the development models of the advanced countries. The destructive consequences of this has already been exemplified in the discussion of the nuclear power plant issue. Other examples abound in the Philippines and in South East Asia.

Such conflicts could have been avoided had proper and free flowing feedback mechanisms been established. Unfortunately, the free flow of ideas and information, and legitimate actions to safeguard people's rights and welfare, have time and again been brutally suppressed. There is no popular involvement in policy-making and decisions are reached by a closed circle of powerful elites.

It can now be seen that environmental issues in the context of South East Asian realities as exemplified by the Philippine experience is complex and should be seen not only in terms of man-nature interactions but also on the level of man-man relationships. Conflicts in man-man relationships ultimately result in an imbalance in the man-nature interactions. These conflicts, on the other hand, arise from the presence of a socioeconomic-political structure that is not adaptive or sensitive to the needs of the greater masses of people especially the poor and oppressed of the rural areas. Such insensitiveness is a manifestation of what has been termed in the whole discussion as the 'urban-Western' bias. This bias means that there is the rule of the few (the urban bias; urban populations comprise only a small part of the total population yet they are the most influential in the shaping of policies and in deriving the benefits of development efforts), and a leaning of these ruling few towards foreign influences and the vested interests of the Western nations (the Western bias). Other more radically minded discussants will perhaps see the urban bias in terms of 'bureaucrat-capitalism' and the Western bias as 'imperialism'. Whatever the terms used, the fact still remains that such destructive relationships exist.

The problem is so deeply ingrained that protective actions are not enough. An overhauling of the system is necessary to correct it. This overhauling must focus on the task of dismantling the tentacles of both local and foreign manipulation and control, so that all peoples may have the full opportunity to exercise their basic human rights. With this, proper directions for development efforts can be charted, ones that protect and improve natural resources and the total environment.

Much has already been said.

Much more has yet to be done.

## SUMMARY OF DISCUSSION IN COMMITTEE VI

The committee's discussion was based on the two papers presented. It can be summarized as follows:

The subject of the environment is one which is least understood. We find seas dying, rampant deforestation and top soil erosion and indiscriminate use of pesticides in agriculture. It is little realized that the very existence of human life depends on a sound environment. In this respect, the issue of human rights vis-a-vis environmental problems is never considered and recognized.

The Committee agreed that the environmental problem in South East Asia and the world is at a critical level, heading for a doomsday scenario. This environmental problem in Third World countries is the outcome of an economy which is geared to serve the needs of the West. Hence there is a need for radical changes in the consumption and lifestyles of people both in the West and the Third World, and the development policies in the latter.

### Proposals

It was agreed by the committee that stronger links between regional organizations in Asia, in US and elsewhere be maintained so that the environmental problem be given a world focus.

An inventory of activities carried out by NGOs in this region should be made so that there is an exchange of information on the work done.

Indigenous resources and technologies which are easily available, cheap, appropriate and which conserves the environment should be used and popularized. These resources and technologies should be managed and controlled by the local community.

Information should be sought on surplus value leakage from rural communities to urban areas i.e. banking policies. The ICJ should concern itself with this issue by convening an international meeting at regional level to review the present legal education system and how it can be changed to take into consideration human concerns.

UN agencies like FAO, WHO and UNESCO should involve themselves more with environmental issues e.g. FAO could tackle the problem of fish resources, pesticides, nuclear waste in seas, and

seeds. Similarly UNESCO could carry out education programmes to tackle these concerns.

UN agencies should work closer with NGOs and recognize their contribution. For too long the UN agencies have neglected the role and contribution of Third World NGOs on the excuse that since the UN is an intergovernmental body it can only deal with individual governments, but NGOs directly represent the people of these countries who are the tax-payers.

INTERNATIONAL LABOUR CONFERENCE

Convention 141

CONVENTION CONCERNING ORGANIZATIONS  
OF RURAL WORKERS AND THEIR ROLE  
IN ECONOMIC AND SOCIAL DEVELOPMENT

- The General Conference of the International Labour Organization,  
Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixtieth Session on 4 June 1975, and  
Recognizing that the importance of rural workers in the world makes it urgent to associate them with economic and social development action if their conditions of work and life are to be permanently and effectively improved, and  
Noting that in many countries of the world and particularly in developing countries there is massive under-utilization of land and labour and that this makes it imperative for rural workers to be given every encouragement to develop free and viable organizations capable of protecting and furthering the interests of their members and ensuring their effective condition to economic and social development, and  
Considering that such organizations can and should contribute to the alleviation of the persistent scarcity of food products in various regions of the world, and  
Recognizing that land reform is in many developing countries an essential factor in the improvement of the conditions of work and life of rural workers and that organizations of such workers should accordingly co-operate and participate actively in the implementation of such reform, and  
Recalling the terms of existing international labour Conventions and Recommendations — in particular the Right of Association (Agriculture) Convention, 1921, the Freedom of Association and Protection of the Right to Organize Convention, 1948, and the Right to Organize and Collective Bargaining Convention, 1949 — which affirm the right of all workers, including rural workers, to establish free and independent organizations, and the provisions of numerous international labour Conventions and Recommendations applicable to rural workers which call for the participation, inter alia, of workers' organizations in their implementation, and  
Noting the joint concern of the United Nations and the specialized agencies, in particular the International Labour Organization and the Food and Agriculture Organization of the United Nations, with land reform and rural development, and

Noting that the following standards have been framed in co-operation with the Food and Agriculture Organization of the United Nations and that, with a view to avoiding duplication, there will be continuing co-operation with that Organization and with the United Nations in promoting and securing the application of these standards, and

Having decided upon the adoption of certain proposals with regard to organizations of rural workers and their role in economic and social development, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention,

adopts this twenty-third day of June of the year one thousand nine hundred and seventy-five the following Convention, which may be cited as the Rural Workers' Organizations Convention, 1975:

#### *Article 1*

This Convention applies to all types of organizations of rural workers, including organizations not restricted to but representative of rural workers.

#### *Article 2*

1. For the purposes of this Convention, the term "rural workers" means any person engaged in agriculture, handicrafts or a related occupation in a rural area, whether as a wage earner or, subject to the provisions of paragraph 2 of this Article, as a self-employed person such as a tenant, sharecropper or small owner-occupier.

2. This Convention applies only to those tenants, sharecroppers or small owner-occupiers who derive their main income from agriculture, who work the land themselves, with the help only of their family or with the help of occasional outside labour and who do not —

- (a) permanently employ workers; or
- (b) employ a substantial number of seasonal workers; or
- (c) have any land cultivated by sharecroppers or tenants.

#### *Article 3*

1. All categories of rural workers, whether they are wage earners or self-employed, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization.

2. The principles of freedom of association shall be fully respected; rural workers' organizations shall be independent and voluntary in character and shall remain free from all interference, coercion or repression.

3. The acquisition of legal personality by organizations of rural workers shall not be made subject to conditions of such a character as to restrict the application of the provisions of the preceding paragraphs of this Article.

4. In exercising the rights provided for in this Article rural workers and their respective organizations, like other persons or organized collectivities, shall respect the law of the land.

5. The law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in this article.

#### *Article 4*

It shall be an objective of national policy concerning rural development to facilitate the establishment and growth, on a voluntary basis, of strong and independent organizations of rural workers as an effective means of ensuring the participation of rural workers, without discrimination as defined in the Discrimination (Employment and Occupation) Convention, 1958, in economic and social development and in the benefits resulting therefrom.

#### *Article 5*

1. In order to enable organizations of rural workers to play their role in economic and social development, each Member which ratifies this Convention shall adopt and carry out a policy of active encouragement to these organizations, particularly with a view to eliminating obstacles to their establishment, their growth and the pursuit of their lawful activities, as well as such legislative and administrative discrimination against rural workers' organizations and their members as may exist.

2. Each Member which ratifies this Convention shall ensure that national laws or regulations do not, given the special circumstances of the rural sector, inhibit the establishment and growth of rural workers' organizations.

#### *Article 6*

Steps shall be taken to promote the widest possible understanding of the need to further the development of rural workers' organizations and of the contribution they can make to improving employment opportunities and general conditions of work and life in rural areas as well as to increasing the national income and achieving a better distribution thereof.

#### *Article 7*

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

#### *Article 8*

1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

#### *Article 9*

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided

for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

#### Article 10

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications and denunciations communicated to him by the Members of the Organization.

2. When notifying the Members of the Organization of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention will come into force.

#### Article 11

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

#### Article 12

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

#### Article 13

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides —

- (a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 9 above, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

#### Article 14

The English and French versions of the text of this Convention are equally authoritative.



INTERNATIONAL LABOUR CONFERENCE

Recommendation 149

RECOMMENDATION CONCERNING ORGANIZATIONS  
OF RURAL WORKERS AND THEIR ROLE  
IN ECONOMIC AND SOCIAL DEVELOPMENT

The General Conference of the International Labour Organization,  
Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixtieth Session on 4 June 1975, and  
Recognizing that the importance of rural workers in the world makes it urgent to associate them with economic and social development action if their conditions of work and life are to be permanently and effectively improved, and

Noting that in many countries of the world and particularly in developing countries there is massive under-utilization of land and labour and that this makes it imperative for rural workers to be given every encouragement to develop free and viable organizations capable of protecting and furthering the interests of their members and ensuring their effective contribution to economic and social development, and

Considering that such organizations can and should contribute to the alleviation of the persistent scarcity of food products in various regions of the world, and

Recognizing that land reform is in many developing countries an essential factor in the improvement of the conditions of work and life of rural workers and that organizations of such workers should accordingly co-operate and participate actively in the implementation of such reform, and

Recalling the terms of existing international labour Conventions and Recommendations — in particular the Right of Association (Agriculture) Convention, 1921, the Freedom of Association and Protection of the Right to Organize Convention, 1948, and the Right to Organize and Collective Bargaining Convention, 1949 — which affirm the right of all workers, including rural workers, to establish free and independent organizations, and the provisions of numerous international labour Conventions and Recommendations applicable to rural workers which call for the participation, inter alia, of workers' organizations in their implementation, and

Noting the joint concern of the United Nations and the specialized agencies, in particular the International Labour Organization and the Food and Agriculture Organization of the United Nations, with land reform and rural development, and

Noting that the following standards have been framed in co-operation with the Food and Agriculture Organization of the United Nations and that, with a view to avoiding duplication, there will be continuing co-operation with that Organization and with the United Nations in promoting and securing the application of these standards, and

Having decided upon the adoption of certain proposals with regard to organizations of rural workers and their role in economic and social development, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation, adopts this twenty-third day of June of the year one thousand nine hundred and seventy-five the following Recommendation, which may be cited as the Rural Workers' Organizations Recommendation, 1975:

## I. GENERAL PROVISIONS

1. (1) This Recommendation applies to all types of organizations of rural workers, including organizations not restricted to but representative of rural workers.

(2) The Co-operatives (Developing Countries) Recommendation, 1966, further remains applicable to the organizations of rural workers falling within its scope.

2. (1) For the purposes of this Recommendation, the term "rural workers" means any person engaged in agriculture, handicrafts or a related occupation in a rural area, whether as a wage earner or, subject to the provisions of subparagraph (2) of this Paragraph, as a self-employed person such as a tenant, sharecropper or small owner-occupier.

(2) This Recommendation applies only to those tenants, sharecroppers or small owner-occupiers who derive their main income from agriculture, who work the land themselves, with the help only of their family or with the help of occasional outside labour and who do not —

- (a) permanently employ workers; or
- (b) employ a substantial number of seasonal workers; or
- (c) have any land cultivated by sharecroppers or tenants.

3. All categories of rural workers, whether they are wage earners or self-employed, should have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization.

## II. ROLE OF ORGANIZATIONS OF RURAL WORKERS

4. It should be an objective of national policy concerning rural development to facilitate the establishment and growth, on a voluntary basis, of strong and independent organizations of rural workers as an effective means of ensuring the participation of rural workers, without discrimination as defined in the Discrimination (Employment and Occupation) Convention, 1958, in economic and social development and in the benefits resulting therefrom.

5. Such organizations should, as appropriate, be able to —
- (a) represent, further and defend the interests of rural workers, for instance by undertaking negotiations and consultations at all levels on behalf of such workers collectively;
  - (b) represent rural workers in connection with the formulation, implementation and evaluation of programmes of rural development and at all stages and levels of national planning;
  - (c) involve the various categories of rural workers, according to the interests of each, actively and from the outset in the implementation of —
    - (i) programmes of agricultural development, including the improvement of techniques of production, storing, processing, transport and marketing;
    - (ii) programmes of agrarian reform, land settlement and land development;
    - (iii) programmes concerning public works, rural industries and rural crafts;
    - (iv) rural development programmes, including those implemented with the collaboration of the United Nations, the International Labour Organization and other specialized agencies;
    - (v) the information and education programmes and other activities referred to in Paragraph 15 of this Recommendation;
  - (d) promote and obtain access of rural workers to services such as credit, supply, marketing and transport as well as to technological services;
  - (e) play an active part in the improvement of general and vocational education and training in rural areas as well as in training for community development, training for co-operative and other activities of rural workers' organizations and training for the management thereof;
  - (f) contribute to the improvement of the conditions of work and life of rural workers, including occupational safety and health;
  - (g) promote the extension of social security and basic social services in such fields as housing, health and recreation.

### III. MEANS OF ENCOURAGING THE GROWTH OF ORGANIZATIONS OF RURAL WORKERS

6. In order to enable organizations of rural workers to play their role in economic and social development, member States should adopt and carry out a policy of active encouragement to these organizations, particularly with a view to —

- (a) eliminating obstacles to their establishment, their growth and the pursuit of their lawful activities, as well as such legislative and administrative discrimination against rural workers' organizations and their members as may exist;
- (b) extending to rural workers' organizations and their members such facilities for vocational education and training as are available to other workers' organizations and their members; and
- (c) enabling rural workers' organizations to pursue a policy to ensure that social and economic protection and benefits corresponding to those made

available to industrial workers or, as appropriate, workers engaged in other non-industrial occupations are also extended to their members.

7. (1) The principles of freedom of association should be fully respected; rural workers' organizations should be independent and voluntary in character and should remain free from all interference, coercion or repression.

(2) The acquisition of legal personality by organizations of rural workers should not be made subject to conditions of such a character as to restrict the application of the provisions of Paragraph 3 and subparagraph (1) of this Paragraph.

(3) In exercising the rights which they enjoy in pursuance of Paragraph 3 and of this Paragraph rural workers and their respective organizations, like other persons or organized collectivities, should respect the law of the land.

(4) The law of the land should not be such as to impair, nor should it be so applied as to impair, the guarantees provided for in Paragraph 3 and in this Paragraph.

#### *A. Legislative and Administrative Measures*

8. (1) Member States should ensure that national laws or regulations do not, given the special circumstances of the rural sector, inhibit the establishment and growth of rural workers' organizations.

(2) In particular —

(a) the principles of right of association and of collective bargaining, in conformity especially with the Right of Association (Agriculture) Convention, 1921, the Freedom of Association and Protection of the Right to Organize Convention, 1948, and the Right to Organize and Collective Bargaining Convention, 1949, should be made fully effective by the application to the rural sector of general laws or regulations on the subject, or by the adoption of special laws or regulations, full account being taken of the needs of all categories of rural workers;

(b) relevant laws and regulations should be fully adapted to the special needs of rural areas; for instance —

(i) requirements regarding minimum membership, minimum levels of education and minimum funds should not be permitted to impede the development of organizations in rural areas where the population is scattered, ill educated and poor;

(ii) problems which may arise concerning the access of organizations of rural workers to their members should be dealt with in a manner respecting the rights of all concerned and in accordance with the terms of the Freedom of Association and Protection of the Right to Organize Convention, 1948, and the Workers' Representatives Convention, 1971;

(iii) there should be effective protection of the rural workers concerned against dismissal and against eviction which are based on their status or activities as leaders or members of rural workers' organizations.

9. There should be adequate machinery, whether in the form of labour inspection or of special services, or in some other form, to ensure the effective implementation of laws and regulations concerning rural workers' organizations and their membership.

10. (1) Where rural workers find it difficult, under existing conditions, to take the initiative in establishing and operating their own organizations, existing organizations should be encouraged to give them, at their request, appropriate guidance and assistance corresponding to their interests.

(2) Where necessary, such assistance could on request be supplemented by advisory services staffed by persons qualified to give legal and technical advice and to run educational courses.

11. Appropriate measures should be taken to ensure that there is effective consultation and dialogue with rural workers' organizations on all matters relating to conditions of work and life in rural areas.

12. (1) In connection with the formulation and, as appropriate, the application of economic and social plans and programmes and any other general measures concerning the economic, social or cultural development of rural areas, rural workers' organizations should be associated with planning procedures and institutions, such as statutory boards and committees, development agencies and economic and social councils.

(2) In particular, appropriate measures should be taken to make possible the effective participation of such organizations in the formulation, implementation and evaluation of agrarian reform programmes.

13. Member States should encourage the establishment of procedures and institutions which foster contacts between rural workers' organizations, employers and their organizations and the competent authorities.

#### *B. Public Information*

14. Steps should be taken, particularly by the competent authority, to promote —

- (a) the understanding of those directly concerned, such as central, local and other authorities, rural employers and landlords, of the contribution which can be made by rural workers' organizations to the increase and better distribution of national income, to the increase of productive and remunerative employment opportunities in the rural sector, to the raising of the general level of education and training of the various categories of rural workers and to the improvement of the general conditions of work and life in rural areas;
- (b) the understanding of the general public, including, in particular, that in the non-rural sectors of the economy, of the importance of maintaining a proper balance between the development of rural and urban areas, and of the desirability, as a contribution towards ensuring that balance, of furthering the development of rural workers' organizations.

15. These steps might include —

- (a) mass information and education campaigns, especially with a view to giving rural workers full and practical information on their rights, so that they may exercise them as necessary;
- (b) radio, television and cinema programmes, and periodic articles in the local and national press, describing the conditions of life and work in rural areas and explaining the aims of rural workers' organizations and the results obtained by their activities;

- (c) the organization, locally, of seminars and meetings with the participation of representatives of the various categories of rural workers, of employers and landlords, of other sectors of the population and of local authorities;
- (d) the organization of visits to rural areas of journalists, representatives of employers and workers in industry or commerce, students of universities and schools accompanied by their teachers, and other representatives of the various sectors of the population;
- (e) the preparation of suitable curricula for the various types and levels of schools appropriately reflecting the problems of agricultural production and the life of rural workers.

### *C. Education and Training*

16. In order to ensure a sound growth of rural workers' organizations and the rapid assumption of their full role in economic and social development, steps should be taken, by the competent authority among others, to —

- (a) impart to the leaders and members of rural workers' organizations knowledge of —
  - (i) national laws and regulations and international standards on questions of direct concern to the activity of the organizations, in particular the right of association;
  - (ii) the basic principles of the establishment and operation of organizations of rural workers;
  - (iii) questions regarding rural development as part of the economic and social development of the country, including agricultural and handicraft production, storing, processing, transport, marketing and trade;
  - (iv) principles and techniques of national planning at different levels;
  - (v) training manuals and programmes which are published or established by the United Nations, the International Labour Organization or other specialized agencies and which are designed for the education and training of rural workers;
- (b) improve and foster the education of rural workers in general, technical, economic and social fields, so as to make them better able both to develop their organizations and understand their rights and to participate actively in rural development; particular attention should be paid to the training of wholly or partly illiterate workers through literacy programmes linked with the practical expansion of their activities;
- (c) promote programmes directed to the role which women can and should play in the rural community, integrated in general programmes of education and training to which women and men should have equal opportunities of access;
- (d) provide training designed particularly for educators of rural workers, to enable them, for example, to help in the development of co-operative and other appropriate forms of servicing activities which would enable organizations to respond directly to membership needs while fostering their independence through economic self-reliance;
- (e) give support to programmes for the promotion of rural youth in general.

17. (1) As an effective means of providing the training and education referred to in Paragraph 16, programmes of workers' education or adult education, specially adapted to national and local conditions and to the social, economic and cultural needs of the various categories of rural workers, including the special needs of women and young persons, should be formulated and applied.

(2) In view of their special knowledge and experience in these fields, trade union movements and existing organizations which represent rural workers might be closely associated with the formulation and carrying out of such programmes.

#### *D. Financial and Material Assistance*

18. (1) Where, particularly in the initial stages of development, rural workers' organizations consider that they need financial or material assistance, for instance to help them in carrying out programmes of education and training, and where they seek and obtain such assistance, they should receive it in a manner which fully respects their independence and interests and those of their members. Such assistance should be supplementary to the initiative and efforts of rural workers in financing their own organizations.

(2) The foregoing principles apply in all cases of financial and material assistance, including those in which it is the policy of a member State to render such assistance itself.

## LAW, PARTICIPATION AND DEVELOPMENT: AN ESCAP PROGRAMME

*K.R. Emrich*

The ESCAP initiated a programme in 1980 which was intended to contribute to the development and support of efforts in member countries concerned with the relationships between law, popular participation and national development processes. To date four meetings have been held. These include an organizational meeting in Bangkok (February 1981), country workshops in Malaysia (June 1981), the Philippines (November 1981), Thailand (March 1982), and a meeting to plan a South Asian programme (Colombo, Sri Lanka, February 1982).\*

The discussion and conclusions of this series of meetings can be usefully discussed in terms of the relationship between the predictability of changing human systems, peoples' participation and law.

### A. System predictability

All too often nationally formulated policy ignores the reality of local power relationships. Or, at the other extreme, attempts are made to circumvent existing local leaders by excluding them from channels of communication and resource distribution. This latter tends merely to replace them with new leadership groups which are naturally more dependent upon external resources than upon the loyalty and creativity of those they aspire to lead.

In either case, the probability is very high that truly responsive possibilities, inherent in every local system, will be effectively forestalled. Examples of such possibilities, which are frequently counter-intuitive, are numerous. A Malaysian village case<sup>1</sup> and a Bangkok slum case<sup>2</sup> are particularly instructive. In the former, in which possibilities *were* allowed to develop, it is clearly shown that structural alternatives are partly shaped both by the desire to provide for a number of internal factors which could not have been anticipated, and by the need to develop the villagers' response to otherwise destructive external 'planning' pressures to conform to inappropriate structural models.

In the Bangkok slum study it is shown that housing location, cottage industries, employment opportunities, wages, contract reliability and social networks are tightly interdependent. These relationships assume great importance when it is realized that the city is greatly dependent upon services which are performed *by slum structures*, to support the process of providing cheap labour in the manufacturing, construction, transportation and entertainment industries. A policy of slum clearance appears a simple one only because it makes no attempt to reproduce slum service structures in new settlements. And it may

\* Reports for these meetings can be obtained from ESCAP, Social Development Division, Bangkok, Thailand.



be impossible for resettled people to do so for a variety of reasons: location, low internal employment possibilities at new sites, transportation costs, and work surveillance possibilities. Certainly they will not be able to do so at cost levels typical of slum internal structures.

'Constraint' in fact is likely the most appropriate term for characterizing the results of policies which attempt to shape in any detail the development of alternative systems, whether urban or rural. For the poor the chief result is not an expansion of their alternatives, but a reduction of their ability to apply their talents to the creative and integrated solution of their problems. Where, as is so often the case, policies are formulated only in response to the desires of the powerful, perhaps only because the weak are not represented, constraints are naturally more severe.

In the Malaysian case study it is made clear that administrative policy would only with difficulty have achieved the effectiveness developed by the people themselves. And the Thai slum case study reveals the extreme complexity of the problem if it is approached from an administrative perspective.

A major problem in attempting to find purely administrative solutions derives from a combination of the extreme variability and complexity of specific situations and the difficulty of providing the kind of explicit and complete information input administrations require. Variability and complexity are partly inherent in socio-cultural variability, but they increase greatly in modern circumstances as change produces ever greater heterogeneity between units (e.g., villages) within social systems.

That systems do become more heterogeneous cannot be in doubt. For example, considering the rural sector, all seem to agree that the traditional structures, which once promoted at least subsistence throughout rural areas, are breaking down. Population growth and changing technology make this inevitable. At the same time, the very idea of basic needs had its genesis in a simultaneous breakdown in the minimum social security provided by traditional social systems and recognition that, far from replacing traditional security structures, development policies have contributed to a massive increase in all kinds of insecurity. It is likely that never has such a large proportion of humanity been so chronically deprived of basic needs.

The breakdown of tradition has both removed the uniformity brought about by tradition and opened the way, through new economic opportunities, to a variety of forms of exploitation based on local power structures which have been relieved of traditional distributive responsibilities. There is a great disparity between, for example, villages, in the real conditions and relationships which prevail.

A number of factors are conducive to disparity. Among them are local land distribution, the degree of commercialization of production, administrative evolution, behavior of local prominent persons, proximity to urban concentrations, type of local industry, and availability of transport. All of these will interact with society and culture to produce a variety of relationships. The more quickly these factors change, the more quickly will heterogeneity grow (i.e. partly heterogeneity is proportional to speed of change), and the more quickly will one expect visible variation in response to policy.

To the extent that policy is dependent for its 'success' (whether in monitoring and evaluation, in bringing about certain changes, or in producing

favourable election returns) upon uniform, predictable responses, the more likely it is that policy will fail. It seems clear that it is necessary to attempt to develop policies which do not assume uniformity, and which minimize dependence upon predictability. It is useful to approach the problem of unpredictability through the question of access to information.

Early development planning efforts were based on a kind of Cartesian-Newtonian model of reality which embodied two basic assumptions and which were taken from the physical sciences. The first assumption was that a sufficient quantity of all relevant information was potentially available to planners and administrators. The second was that the proper use of this information would make possible the design of policies, programmes and projects which would result in the achievement of predetermined changes in distribution, and/or levels, of income, wealth, power, prestige and influence within national populations.

A major problem with the assumption about the availability of information, even assuming the predictability of change in social systems, is the belief, first, that all relevant information can be made explicit in order to permit its rational consideration, and second, that those who can produce explicit information will do so.

There are several ways to approach the problem of explicitness. For example, one relies heavily on planning on a more or less statistically rigorous treatment of the variables one assumes to be important in the planned system. It is difficult, however, to justify the implicit assumption that prediction in human systems is amenable to this kind of analysis. Perhaps this is why the literature of development analysis devotes so much effort to the discussion of unanticipated consequences, both negative and positive.

One systems theorist characterizes the problem as follows: 'the management scientist, when he becomes very serious about his own models, in which "all" of the objectives are represented and a "proper" compromise is created, also is deceived. In the straight-faced seriousness of his approach, he forgets many things: basic human values and his own inability really to understand all aspects of the systems, and especially its politics.'<sup>3</sup>

The problem of the innate inexplicitness of planning-relevant information is that knowledge about local social processes is embedded in a system of feelings and actions. One cannot make either explicit in a form useful for planning. Feelings are ineffable in the sense that one cannot get beyond a very general expression of them, both because they are conflicting, and because they are, by their very nature, a pre-articulate assessment of a situation. Actions cannot be explained in any completely scientific sense because they are partly a result of feelings, and partly a result of interpretations of present stimuli on the basis of past experience.<sup>4</sup> This is why Malaysian villagers, Thai slum dwellers, and 'the people' everywhere see their problems differently from professionals.

With reference to the statistical/analytical problem the foregoing argument can be summarized by saying that statistics can deal only with four to five variables, in a loosely approximate fashion, while human minds, and the systems they form, habitually deal with many more in a partly implicit, feeling-action process.<sup>5</sup> This process is constantly adjusted to changing circumstances, changing interpretations, and emergent factors.

Accepting that predictability is far lower than planners seem to believe, attention may move to participative means for dealing with unpredictability in such a manner as to achieve the goals of development.

## B. Participation

A legal focus makes it clear that there is a close relationship between policies and structures concerning participation and those concerning conflict resolution. In a sense, of course, the relationship is obvious, but the establishment of articulation between the two policy processes is not simple.

Even defining the two concepts, participation and law, is difficult. Part of the problem lies in the tendency to look for static definitions which describe some ideal goal state. Participation is not something to be achieved, not something to list as part of a set of goals with GNP, grain production, etc. Rather, participation is a continually changing process in which initial changes will induce or require a continuing series of changes. Participation in society is the manner in which people express or act out their human nature, and the positive potential of human nature has never been approached.

It is true that people strive to achieve social expression of their ideals, that they strive for the achievement of their conception of an ideal society. People need stable, cognitively consistent societies in which to develop their culturally defined potential. Yet they also are driven by a common human need to pursue 'the good'. There is a fundamental conflict between our need for stability and our essentially moral nature. Our cultures help us to integrate ourselves as individuals, but the opportunities they offer for integrated behaviour rarely come even close to the achievement of what we believe our potential to be. We compromise; but we know we compromise, and seeing our limitations we try to transcend them.

So we cannot look for a level of participation which satisfies some set of minimum needs because the very achievement of this minimum will itself create demands for even greater participation. These ever changing demands will generate a continuing series of conflicts as old patterns of authority, division of labour and distribution are challenged; this is what development is all about.

These challenges, and the evolutionary process which they suggest, naturally will cause a continuing series of conflicts as new modes of social co-ordination develop. If these conflicts are to be resolved on the basis of changing modes of co-ordination then it seems reasonable to suppose that new kinds of explicit conflict resolution techniques must be developed.

This argument yields useful definitions of law and participation. *Participation* is the process by which a new mode of social co-ordination is approached through a broadened distribution of authority for planning, implementation and evaluation of development processes. Authority must somehow be redistributed in favour of the disadvantaged in order that labour may be divided more on the basis of inherent (i.e., genetic) ability and production more in consonance with the development of that ability. *Law* refers to the inclusive process of conflict identification, processing and resolution. The legal process itself must therefore be a central focus of the effort to increase participation. Law and participation go together because law-making and application is the

exercise of political power. 'It is because law augments personal power that it is a valuable resource. This is why many think it important to expand the access of low and middle class individuals to legal services.'<sup>6</sup>

Participation and law seem to go together in the context of development for at least two reasons. First, when we speak of participation we are usually aware of its dependence for realization upon new kinds of co-operation, usually co-operation among those commonly felt to be disadvantaged by poverty, lack of tenure, socio-cultural marginality, etc. Where new kinds of co-operation emerge it is certain that new kinds of conflict will arise. Participation after all must be in pursuit of something, invariably something possessed or desired by more powerful individuals or groups. These groups will certainly resist loss, and so ensuing conflicts must somehow be resolved. To advocate participation, that is, is to advocate also new kinds of conflicts which must be resolved.

*Secondly*, both law and participation, in contexts of general change, seem to demand situation-specific case-by-case approaches. For example, no single legal provision can cover tenure problems as diverse as those of forest-fringe squatters, urban squatters and agricultural tenants, and even within each category circumstances will vary a great deal. Similarly, the manner in which participative processes develop in pursuit of goals will differ a great deal between different socio-cultural environments. The structure of the problem setting alone will force specific responses to, for example, tenure, industrial employment and urban housing problems. Administrative systems *per se* have shown little capability for dealing with such differences.

The potential relationship between law and participation has been predicated upon the need to resolve new kinds of conflict which are inherent in participation because of its redistributive intent. The development of the connexion is important where the intent is to use legal possibilities for assisting the poor because present legal systems are structured in favour of the powerful and the wealthy; the poor must approach the law in a united manner because they must aggregate their small individual legal resources. Participative efforts must attempt to use the law as a tool.

A major obstacle to improving the responsiveness of legal systems to problems of the poor is simply that processual features of legal systems tend to presume that wealth and access *should* be correlated. That is, one function of legal systems, as they have developed in history, is to preserve the primordial advantages of power and wealth. By its very nature, litigation is a war of attrition. The poor must have long-term associations because only those who habitually resort to the legal system have the advantages it confers upon intelligence and expertise, upon continuing associations in the system, and upon the ability to work for precedent as opposed to dependence upon the outcome of single cases.

At the same time there are invariably unexploited legal rights which can be appealed to by the poor. As they become aware of these rights they tend to become more assertive. Group actions can increase assertiveness because they reduce the fear of reprisal or injustice. This effect will be increased where the poor are enabled to invoke self-help laws by a pooling of resources through association; where enforcement machinery is inadequate, participative organization can supplement formal machinery.

From the perspective of participation, law is a vital part of the repertoire of action possibilities. Any significant reduction in the incidence of absolute

poverty must be associated with conflict because it can only come about as an accompaniment to changes in the distribution of political and economic power.

At the same time, it can be extremely difficult to see the initial changes which start the process of redistribution,<sup>7</sup> and because we cannot see the start of the process we must be ready to handle it when it does become visible. One general way of preparing for non-destructive system transition is to de-emphasize hierarchy and give increased autonomy to local systems. So, on the one hand, we need relative autonomy of the poor from, for example, bureaucracies, and, on the other, we must pre-structure some kind of positive response to participative developments which may be fundamentally unpredictable.

The legal structure is perhaps a good place to begin a flexible preparation for surprises. Law can function both to define legitimate areas of conflict and its expression and to provide a more general structure within which people and groups can attempt to find ways of expressing their own problems, in a resolvable manner.<sup>8</sup> This, of course, relates to the foregoing discussion of the effects of knowledge about legal rights. A measure of autonomy from bureaucracy is achieved by simple knowledge of those areas where bureaucratic discretion can be exercised in favour of the poor.

It is possible to envisage the development of a kind of floating interface between legal and participative processes. In this sense participation is a problem-defining process which turns a part of the potentially more conflictual problem resolution process over to legal systems. The importance of participative problem definition lies in the common differences of definition which are found between policy makers and the poor. Where alternatives derived from the definition of the poor can be given specific expression, it can be expected that willingness to take risks in attempts to realize them will be greater. People are more reluctant to undertake risky pursuit of the ethereal.

Legal resource requirements will increase as this kind of participative behaviour increases. An interface develops then because a proactive legal system concerned with promoting these processes will more or less automatically allocate legal resources to visible problem concentrations; grease will go to the squeaky wheels where it can be used most effectively. An examination of 'law' will help to clarify this potential.

### C. Law

It is useful to distinguish between three kinds of law: state law, lawyer's law and people's law.

*State law* or the formal law found in constitutions and statute books usually has important foreign components, most often because former colonies have retained elements of metropolitan legal systems. While no contemporary legal system can be said to be truly indigenous (e.g., European legal systems can be traced back to Roman law, and beyond that to Greek and West Asian systems; Japanese law has been heavily influenced by earlier Chinese experience), modern imposed state legal systems usually do not articulate well with informal indigenous systems. This problem is currently receiving extensive attention. Nevertheless, it is in state law that we find high level values concerning impartiality, equality of access and treatment, etc., and any attempt to articulate it with indigenous law must attempt to operationalize these values.

Indigenous systems are not, of course, necessarily benevolent. Social systems have always had ways of depriving producers of their surpluses, but under traditional systems reciprocal patterns of dominance and subordination between patrons and clients have provided the latter with a degree of security except during major disasters. Contemporary processes, however, have destroyed much of the need of patrons for former clients (e.g., through mechanical alternatives to physical labour), and lawyer's law has been a useful tool in the institutionalization of this change. That is, law continues to evolve as a reflection of existing social, economic and political relationships, relationships which give excessive weight to the rich and the powerful.

*Lawyer's law* is the result of the interpretation by legal experts of state law in response to the conditions experienced and the interests pursued by elites. The process is analogous to that by which genetic structure interacts with environment to produce a phenotype, i.e., a physical-behavioural result. And it is analogous also to, and has a mutually supportive relationship with, the manner in which science is expressed as technology, either 'appropriate' or 'inappropriate' in contemporary parlance. The 'rule of law' and the 'rule of technology' are mutually supportive.<sup>9</sup>

The law is meant to achieve the ideal of formal legal impartiality. However, much of modern state law, and bureaucratic regulations, necessarily allow for many kinds of discretion by judges, bureaucrats and enforcement officers at all levels. The exercise of discretion becomes an uneven contest with the rich, the powerful, and the expert on one hand, the poor, the weak, and the legally uninformed on the other. The ideal of impartiality thus must somehow resist unequal pressures and, certainly over time, it yields most often to the side which is able to bring to bear consistently the greatest pressure.

The almost universal tendency of legal systems to give excessive weight to process, as opposed to the pursuit of the values which ostensibly underlie law, accentuates the power differential. The utilization of legal processes, which tend to be complex and abstruse, requires professional specialized competence and financial resources. And the advantage goes to those who do not stake all on one case, who use the system frequently and so can rely on precedent, experience and continuing relationships with those who staff the system.

These advantages alone are enough, but when they are combined with the attitudes of the poor toward the law, the advantage of elites is overwhelming. Elites usually have a clear idea about what the law is and how it can be used. The poor, on the other hand, have a wide variety of beliefs about the law, based both in their ignorance and on negative experience, and so they are restricted in their ability to use their one advantage — the power of co-operative effort. Even if they share perceptions of the law, they have good reason to fear reprisals or injustice if they seek access to law.

The fear of reprisal is often a profoundly complex question in developing countries where a major problem is the establishment of a value consensus among competing cultural groups, classes and elite groups. 'In this context group identity is defined by common adherence to a detailed code of conduct that sharply separates members from outsiders and serves as a continuing affirmation of loyalty and solidarity. Disobedience is betrayal, an offence against the community as such, and its gravity bears little or no relation to whether

or how seriously particular interests are injured.<sup>10</sup> In such situations there is a great temptation to attempt to embody this code of conduct in the law.

*People's law* promises the possibility of a truly creative, redistributive, interaction with progressive state law. Time is a much more important variable in contemporary national development processes than it was in the colonizing nations. In contemporary national development processes, processes which were often halted by colonial periods, the process of change is much more rapid (e.g., because of technological possibilities), much less dependent on the needs and culture of local erstwhile clients, and much more determined by international exigencies and the free play of will by central elites.

In effect, customary law has been rendered irrelevant in the eyes of policy makers, partly because the latter experience great difficulty in maintaining long-term policy continuity commitments. Also this relates to questions of predictability discussed above. Systems are simply not subject to the kind of predictability required by centralized, detailed policy prescriptions. This requires constant changes as predictions fail.

One alternative is to give up the assumptions (we do learn from experience) and turn to a process which, more than any other, characterizes *human* development. This process is local, participative, and creative. It embodies what is called here *people's law*.

*People's law* in this sense refers to locally *evolved* techniques for dispute resolution. It embodies a blend of traditional conflict resolution and leadership techniques with state law as it is locally perceived and embodied. It takes much of existing discretion from the hands of national bureaucrats and *returns* it to local systems. It is very much related to state law in that it seeks to identify and maintain a kind of mutually dependent 'floating' interface between *people's law* and state law. It is flexible because it minimizes dependence upon locally uninvolved decision-makers. It is fair because it expresses the world view embodied in local systems, and because it is dependent upon the good will of those it judges.

## References

- 1) See Consumers' Association of Penang. *Pollution: Kuala Juru's Battle for Survival*, Penang: CAP, 1976.
- 2) See Akin Rabibhadana. *Livelihood of Slum Dwellers in Bangkok: The Case of Trok Tai*, Thai Khadi Research Institute, Thammasat University, Bangkok.
- 3) C. West Churchman, *The Systems Approach*, New York: Dell Publishing Co., Inc., 1968, p. 228. This, of course, is what politicians do; in a sense they are intuitive systems scientists and are well advised to be wary of subordinating their intuition to, especially to, those who prefer to believe that what cannot be counted cannot be.
- 4) For example, 'the people know much more about local land and labour use than can be captured in any survey' (A.Z.M. Obaidullah Khan), 'Participatory development: the need for structural reform and people's organization', in Ram C. Malhotra and Vinyu Vichit-Vadakan (eds.), *Alternative Strategies for Development with Focus on Local-level Planning and Development*, Bangkok: United Nations Asian and Pacific Development Institute, 1979, p. 16.
- 5) Liam Hudson. *Human Beings: The Psychology of Human Experience*. Garden City, N.Y.: Anchor Press, 1976, p. 31.

- 6) Richard O. Lempert, 'Mobilizing private law: an introductory essay' *Law and Society Review*, Vol. 11, No. 2 (Special Issue 1976), p. 184.
- 7) Magoroh Maruyama. 'Toward Cultural Symbiosis', in Erich Jantsch and Conrad H. Waddington (eds.) *Evolution and Consciousness: Human Systems in Transition*. Tokyo: Addison-Wesley, 1976, p. 203.
- 8) Malcolm M. Feeley, 'The Concept of Laws in Social Sciences' *Law and Society* Vol. 10, Summer, 1976, p. 520.
- 9) Laura Nader and Harry F. Todd, Jr. 'Introduction', in Nader and Todd (eds.) *The Disputing Process: Law in Ten Societies*. N.Y.: Columbia University Press, 1978, p. 32.
- 10) Philippe Nonet and Philip Selznick. *Law and Society in Transition: Toward Responsive Law*. N.Y.: Harper and Row, 1978, p. 47.