

MASTER

**RURAL DEVELOPMENT
and
HUMAN RIGHTS
IN SOUTH ASIA**



**INTERNATIONAL COMMISSION OF JURISTS
and
HUMAN RIGHTS INSTITUTE, LUCKNOW**

RURAL DEVELOPMENT AND HUMAN RIGHTS IN SOUTH ASIA

Report of a Seminar
held in Lucknow, India,
4-9 December 1982



**INTERNATIONAL COMMISSION OF JURISTS
and
HUMAN RIGHTS INSTITUTE**

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PREFACE

In December 1982 a seminar was held in Lucknow, India, on Rural Development and Human Rights in South Asia, organised by the International Commission of Jurists (ICJ) and the Human Rights Institute, Lucknow. This was the seventh of a series of third world seminars organised by the ICJ, the previous ones being in Dar-e-Salaam (1976), Barbados (1977), Dakar (1978), Bogota (1979), Kuwait (1980) and Penang (1981).

The participants, who came from Bangladesh, India, Nepal, Pakistan and Sri Lanka included practicing lawyers, judges, law teachers, economists and political scientists as well as members of grass-roots non-governmental organisations working with the rural poor, and representatives of the International Labour Organisation (ILO) and the Economic and Social Commission for Asia and the Pacific (ESCAP).

The main discussions took place in committees, and the subjects discussed included agricultural and economic policies; socio-economic structures at village level; land tenure and land reform; organisations of rural workers; landless labour and bonded labour; tribals, migrants and other disadvantaged minorities; the role of women in development; population control; health services; violence and counter violence; and legal aid and legal resources for the rural poor.

The basic issue was the socio-economic structures at village level, where the majority live in abject poverty dominated, intimidated and exploited by wealthy farmers, traders and money-lenders. Even the law enforcement authorities are under their sway and powerless to protect their victims. In face of this, the participants were unanimous in holding that, while a strong political will was needed to change this pattern of exploitation and poverty, nothing effective could be achieved unless and until the rural poor organised themselves to create a countervailing power to that of the merchant-farmer-money-lenders. Where this had been done, real progress had been made.

Other conclusions of the seminar were that :

many well intentioned agricultural and economic policies have resulted in benefit to the rich and middle class peasants rather than to the rural poor, due to the power structures just referred to ;

the exploitation of bonded and other landless labourers is increasing and spreading from the rural to the urban areas, in spite of progressive legislation outlawing this slavery-like practice ;

the same comment applies to the exploitation of the many millions of indigenous peoples, known as 'tribals', who are cheated out of their rights, and to the almost wholly unorganised migrant workers ;

the exploitation of women, often based on outdated and now illegal practices, continues and is intensified by the growing violence committed against women ;

while the need for population control was recognised, programmes for it need to be more flexible, and will not succeed until increased social security and health services remove the main incentive to large families ;

the emphasis of health services in rural areas should be on the preventive aspect of medicine, such as the provision of clean water and sanitation facilities, and more respect should be shown towards traditional medicine ;

the prevalent violence in rural areas would not be overcome without recognition of the violence inherent in the existing social, political and economic structures ;

legal aid and legal resources for the rural poor should be directed first and foremost to co-operation between concerned lawyers and grass-roots non-governmental organisations at village level, so as to inform the poor as to their rights, and to train para-legals to help them to assert and defend these rights.

At the end of the seminar the participants decided to create a regional organisation to promote such co-operation. It is called SAARD — the South Asian Association for the Right to Development. The secretary is Mr. R. N. Trivedi, C-2/5, River Bank Colony, Lucknow 226001, Lucknow.

This publication sets out in full the conclusions and recommendations of the seminar, together with the working papers, the opening speech of Y. V. Chandrachud, Chief Justice of India, and the key-note addresses of Dr. Clarence Dias and Professor Upendra Baxi.

The ICJ and the Human Rights Institute, Lucknow, wish to thank the following organisations whose financial contributions made possible the holding of the seminar: Asia Partnership for Human Development, Bread for the World (German Evangelical Church), Dutch Bishops' Lenten Action, European Human Rights Foundation, Inter-Church Co-ordination Committee for Development Projects (ICCO, Netherlands), and the Netherlands Organisation for International Development (NOVIB).

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**CONCLUSIONS AND RECOMMENDATIONS
OF THE LUCKNOW SEMINAR ON**

RURAL DEVELOPMENT AND HUMAN RIGHTS

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I. Socio-economic Structures at Village Level, and Organisation of Rural Workers

1. The power structures at village level vary not only from country to country but within each country of the region. There is, however, a basic pattern typical of villages in large areas of the region, comprising:

- a small powerful elite of one or more wealthy farmers, employing agricultural labourers; and selling their produce to the market;
- land-owning small farmers who produce partly for their own subsistence and partly for the market;
- land-owning subsistence farmers, who work their land for between 3 and 6 months of the year, and seek employment as labourers for the rest of the year; and
- landless labourers.

2. The wealthy farmers dominate the village community. With their wealth they frequently act both as traders and as money-lenders. As traders they are able to control the market for agricultural produce to their own benefit, and as money-lenders they are able in time to make other farmers and labourers dependent upon them.

3. The small farmers are unable to obtain more than normal prices for their produce, and being unorganised are unable to secure better terms in the market.

4. The subsistence farmers are often unable even to meet the needs of their families, due either to drought or other crop failures, or because their crops are seized without payment in part satisfaction of their debts.

5. The landless labourers are the largest and weakest groups, and when unable to find work live in the most abject poverty.

6. In India the rent farming landlord system was abolished in the 1960's, and in many states tillers became small landowners,

However, a substantial amount of the land remained in the hands of the ex-landlord and the traditional land-owning castes, and a new class of profit-oriented and interest conscious rich farmers has emerged. Immediately after the green revolution around 1967, the condition of the small farmers improved, but today this progress had ended and their condition has reverted to its old state. The rich farmers are combining and using a multiplicity of means of exploitation. Some of these are unlawful and many result from the dependence of the poor upon them in their capacity as money-lenders.

7. In addition to the traditional and local system of high caste land-owners and money-lenders, a new class of political 'mafias' has emerged, oppressing and intimidating peasants and labourers, unorganised or organised, through 'muscle-men'.

8. The victims of both systems of exploitation are the weakest sections of the community, especially women, subsistence farming peasants, landless labourers, tribals and scheduled caste workers (i.e., outcastes or 'harijans'). Most of them are illiterate, uneducated and impoverished.

9. Rural development policies and programmes have usually benefitted the more prosperous sections of the community to the detriment of the rural workers.*

10. In some countries of the region the main impediment to organisation of rural workers is that the basic human right of freedom of association is denied or restricted. In others, the problem is not that this right does not exist but that progressive legislation to protect and benefit the disadvantaged is not implemented through lack of political will and ineffective government machinery, as well as lack of awareness of these rights.

11. More specifically the principal impediments to organisation are :

- monopoly of power, economic, social and political, in the hands of a small landed elite who actively discourage organisation, fearing disturbance of the status quo;

* This term is used in the sense defined in the ILO Convention 141, namely to include any person engaged in agriculture, handicrafts or a related occupation in a rural area, whether as a wage-earner or as a tenant, share-cropper or small owner-occupier, and who works the land himself, with the help only of his family or occasional outside labour.

- lack of homogeneity, giving rise to various conflicts, including conflicts of economic interest, conflicts between landless labour and small farmers, and conflicts based on caste or ethnic differences or different local interests ;
- difficulties of communication and dissemination of information ;
- lack of education and resultant apathy ;
- lack of options and resultant insecurity ;
- lack of bargaining power connected with low wages, seasonal work, lack of alternative job opportunities in the rural areas and non-availability of cheap credit ;
- in some countries political instability and even total alienation from the political process ;
- disabilities faced by women due to socio-cultural constraints such as segregation, purdah and physical insecurity ;
- absence of laws, legal structures or implementing machinery to enforce progressive legislation.

12. In Sri Lanka the Sarvodaya Shramadana Movement has succeeded in liberating thousands of villages from their state of dependence by "a process of reawakening in the individual and in the community which teaches the community how to utilise the potential resources, both human and material, for its own advantage. This can be done by a total development education process. The basic needs of everyone are met in the new social order of the village known as bramodaya, or reawakened village. The principles of sharing, pleasant speech, productive action and equality are emphasised". The movement is of religious inspiration but is non-sectarian and succeeds in overcoming differences of race, religion or caste. The participants from India stated that, notwithstanding its success in Sri Lanka, similar movements had been initiated for over a decade in India and had all ended in failure.

Conclusions and Recommendations

13. The principal remedy for removal of exploitation lies in the organisation of rural workers to protect their interests, to strengthen their bargaining power, to gain access to the means of development

and to ensure greater participation in decision-making. This would also strengthen their role in the political process.

14. Therefore, immediate steps should be taken to conscientize the rural poor and make them aware of their rights and the methods by which these could be achieved and maintained.

15. This can be done by improving and fostering the technical, economic and social education of rural workers. This will enable them to initiate organisations at the grassroots level to develop and protect themselves and, to understand their rights, involvements, and obligations. It will also help them to participate actively in their personal development and in decision-making in the area of their work, and inspire them to engage actively in rural development designed to benefit the poorer sections of the rural community. Special attention should be paid to the education of women, wholly or partially illiterate workers and tribal and other disadvantaged groups.

16. The goal should be to bring together and unite all rural workers in one organisation so as to overcome their differences and decisions, and create an effective countervailing power to withstand the oppression and discrimination to which they are subject, and to assist and achieve their legal rights.

17. However, rural workers being widely dispersed and not homogeneous, it is not possible to devise a model to suit all contexts. Different types of organisation are or may be required. Some situations may call for organisation based on an economic need, such as trade unions or co-operatives. Others may require secular non-political organisations comprised of members of disadvantaged sections of the society to act as vigilance groups and to ensure implementation of their basic rights. Still others may need to be created on political lines.

18. The right to education, freedom of association and the right to form organisations to preserve fundamental rights are rights guaranteed under the International Bill of Human Rights. Accordingly, all states in the region which have not done so are urged to ratify the two International Covenants, respectively on Economic, Social and Cultural Rights and on Civil and Political Rights, together with the Optional Protocol to the latter Covenant (which establishes a right of individual petition). There will then be an international obligation on all states in the region to uphold and promote these rights.

19. Participation of the people in decision-making strengthens the claims for basic needs, and helps maintain a more healthy equilibrium between employer and employee relationships. Governments should therefore make it an objective of national policy for rural development to facilitate the establishment and growth of independent organisations of rural workers as an effective means of ensuring their participation. No state should at any time deny the right to form and maintain association of workers, or impair or interfere with their working. All remedial measures internationally recognised should be permitted to the organisations to pursue, maintain and further their interests.

20. To help promote rural workers organisations, grassroots non-governmental organisations (NGOs) and other groups in rural areas should conduct a dialogue with the rural poor, with the objectives of learning mutually from each other, overcoming their inadequacies, studying the various forms and ways in which workers are exploited, encouraging positive indigenous values and minimizing negative ones, and developing internal leadership. Such organisations should also be instrumental in disseminating relevant information, including information as to peoples' rights and the available remedies. Visits of lawyers, journalists, university students and other concerned groups should be organised, and training programmes, meetings and seminars arranged with effective participation of rural workers.

21. Organisations of rural workers in other fields than agriculture should also be encouraged as these would tend towards greater unity and encourage a greater readiness to form co-operatives and trade unions in the rural areas.

22. Lawyers have an important role in the development process, since the changing demands will generate a continuing series of conflicts as old patterns of authority, division of labour and distribution are challenged. If these conflicts are to be resolved new techniques must be developed. The legal process itself needs to be reformed so as to enable increased participation. This must involve a study and review of existing laws and mechanisms, their adequacy to meet emerging problems and the evolution of new models of dispute settlement to suit the changed conditions.

23. In short every effort must be made to foster the growth of a countervailing power in the hands of the rural poor to help them

to determine the nature of the development process and to benefit from it.

II. Agricultural and Economic Policies: their effects on the rural population

24. A variety of agricultural and economic policies have been enacted in the region, which were intended to control rural poverty and distribute resources to the rural poor. These policies, however, have often resulted in benefit to the rich or middle class peasants rather than the poor. In spite of 50 or more years experience the symptoms of poverty are everywhere seen to have intensified. This is partly the result of other agricultural and economic policies such as those for pricing of inputs and agricultural products, taxation, subsidies (e.g. for tractors) and marketing. These have had the effect of contributing to rural impoverishment in pursuit of economic growth in other sectors.

25. For example, agriculture pricing policies are dominated by industrialists engaged in the manufacture of inputs (e.g. pesticides and fertilizers) and finished products (e.g. sugar). The state in almost all countries in the region is the bulk purchasers of agricultural produce, and prices are fixed by the state without adequate consultation with the farmers at the time of harvesting.

26. International and bilateral funding organisations often contribute to these effects by their failure to undertake serious analysis of the effects of funded projects upon the poor and disadvantaged groups (e.g. women, communal and caste groups).

27. A central issue is the distinction between the rural village as it is, and the kind of village which policy seems to be attempting to bring into existence. Traditional villages in fact are integrated systems of reciprocal obligations which provide some minimum of security to nearly all. Security is often purchased by acceptance of oppressive circumstances, but it is preferred to no security at all.

28. Government policy, on the other hand, often seems to assume that a village is a set of functions with little or no interdependence. These functions, it is assumed, can be more adequately performed by specialists (teachers, extension agents etc.) in rationalising bureaucracies responding to central directions.

29. These two "villages" can be conceptualised as competing delivery systems, that is, as systems which deliver, or aspire to deliver,

people's needs to them. The traditional delivery system is integrated and relatively self-contained. It is exploitative, but also dependent upon all of its members and so must guarantee subsistence and security.

30. The government delivery system is compartmentalised and dependent upon continuing external inputs of all kinds which are inevitably delivered as patronage. It aspires to eradicate exploitation, but often tends to intensify it because it reduces the dependence of local elites upon traditional village services by replacing these services with a variety of "modern" alternatives (e.g. urban trained professionals, urban developed technology, external markets). Competition for this patronage tends to further fragment villages on caste or communal lines and so to perpetuate processes which in themselves contribute to economic and social disparities.

31. A general result is the domination of the traditional system by the government system. However, government programmes are inevitably distorted by the necessity of passing through several layers of political and administrative interpretation. They are also influenced by exploitative elements in traditional systems as they move from policy expression to local implementation.

32. State patronage becomes available to exploiters within traditional systems. The poor remain dependent upon money-lenders, landlords, and others who are able to increase their influence and independence by acting as middlemen between government and traditional systems. As middlemen they are able to use these government resources and services to strengthen their hold on the poor. The original interdependence of rich and poor has been replaced by one-way exploitation systems tend to retain their collusive relationships. Some of the poor accept this increased level of exploitation because it offers at least subsistence. The rest are expelled into urban slums, into a wandering army of reserve labour, or into perpetual near slavery.

33. As with all generalisations this one must be tempered. In practice it is found that in some instances the poor have been able to appropriate larger proportions of government assistance. This is almost always where effective organisations of the poor have emerged. Subsidising the poor has been temporarily effective, but has always had a negative effect upon productivity and, in any event, usually cannot be sustained.

34. Generally, where the poor have been successful, it has been as a result of a combination of local awareness and energy, in concert with organisational and other kinds of assistance from grassroots NGOs.

35. The assistance of grassroots NGOs has proved absolutely essential if development programmes are to reach the poor. NGOs have helped to highlight the need to adjust the local application of policy, and implementation of programmes, to the pace and timing of the poor, who inevitably tend to be cautious as a result of their past experience with government programmes. NGOs provide a source of continuing support to leaders among the poor who challenge oppressive systems. They apply pressure to local officials. They display alternatives to traditional systems, and they help to muster local resources.

Recommendations

36. The rural poor as should be treated as active subjects of development who make choices, rather than as passive beneficiaries.

37. Solutions to the problems of the rural poor can only come with success in a struggle over control of local productive resources and government assistance. Local officials must be held locally accountable.

38. National policy-making systems must accept devolution of power, so that effective planning, implementation and evaluation takes place at the local level.

39. Well formulated legislation is necessary but not sufficient. Effective implementation machinery is necessary.

40. Wide scope must be allowed for, and active encouragement given to, organisations of the rural poor.

41. Grassroots NGOs are essential to successful implementation of anti-poverty rural policies, through organisations of rural poor.

42. Policies often have the result of transferring income and wealth from rural to urban sectors. Research is necessary to document this in detail and to develop countering policies.

43. Projects of multilateral and bilateral funding organisations should be designed so as to have a positive impact upon the rural poor. Potential negative consequences should be clearly identified and countered. Project evaluation should deal specifically with these issues.

III. Land Tenure and Land Reform

44. Land reform should result in a land tenure system which :

- facilitates production;
- rewards those who work the land; and
- results in an equitable distribution of power.

45. Three kinds of land reform have predominated in South Asia, none of which meet these criteria. One has been essentially amelioristic, intended to reduce the pressure for redistribution of existing holdings. Resettlement and reclamation projects exemplify this approach.

46. A second kind of reform has had a welfare function. It views poverty as misfortune, the result of special circumstances, rather than as the necessary consequence of the modernisation of oppressive structures. This kind of reform has been small in scale and paternalistic in nature. Its effects are soon submerged in rapidly rising tides of poverty.

47. A third kind of reform has been motivated by recognition of the productivity of small farmers. It has often achieved its goals, but the result is the establishment of a kulak class of medium size farmers. This class then inevitably becomes a major force in resistance to the kind of structural reform which seems the only way to deal with massive rural poverty.

48. It is clear, therefore, that not only does land reform in South Asia not meet the above criteria, but it has not changed the conditions that cause rural poverty. As long ago as the early 1970's the landless and near landless ranged from 50% to 75% of all rural households. These proportions are no doubt significantly higher now in the early 1980's.

49. The main achievement of land reform policies in the region (especially in India, Bangladesh and, to a lesser extent, Pakistan) has been the abolition of intermediary tenures, bringing cultivators into direct relation with the state, relieving them of various feudal dues and liberating them from anachronistic and repressive revenue administration. Other objectives of land reform, such as providing security of tenure to tenants, regulation of rents, and imposition of ceilings on land holdings remain largely unimplemented. The resumption of land by former landlords in the name of 'personal cultivation' has led to large scale eviction of tenants, and

provisions for land ceilings and distribution of excess land among the poor has proved a myth in view of legal loopholes, exemptions and inadequate implementation.

50. A variety of difficulties for the intended beneficiaries have resulted from the implementation of land reform through land ceilings legislation. The distributing authority has often failed to ensure that the land qualified for such distribution. This has resulted in endless rounds of litigation which have at times led to the bankruptcy of the landless poor who have been awarded the land. In India such cases can pass through as many as 5 levels of litigation. Distribution of surplus land is less prone to lead to litigation but this land has often tended to be less productive than ceiling land.

51. It is noteworthy that women have been virtually excluded from land reform programmes. Not only is the land distributed to the husband alone, but women have no say in the utilisation of the land or in the disposal of the product, and do not share in the benefits. This is characteristic of the subordinate status of women in the society.

Recommendations

52. The fair distribution of land is necessary to reduce the manipulative power of existing local elites.

53. Strong local organisations of the beneficiaries are an essential component of land reform programme and clear and strong political support from the central government must be given to these local organisations.

54. Land distribution must be part of an integrated programme to give small farmers access to inputs, credit, information and markets. Compartmentalised government policies must be co-ordinated by and be answerable to the organisations of the small farmers. These organisations must be composed of genuine equals, and they will gain in strength from incorporating some common activities on a truly co-operative basis.

55. In implementing land reform through land ceiling legislation the distributing agency should be responsible for ensuring that the land distributed qualifies legally for distribution. Once the decision to distribute land is taken, the state should be responsible for bear-

ing all costs and of undertaking on behalf of the beneficiary such litigation as may be necessary to ensure effective distribution of the land.

56. The new forms of absentee landlordism that have been emerging as a result of large scale urban investment in agriculture should be curbed by legislative and regulatory measures. Progressive land taxes for this purpose should be considered.

57. To help secure the accountability of the keepers of land records, these records should be publicly displayed at the village level on a continuous basis.

58. Distributed land must be jointly owned by spouses, with equal ownership and mutual rights of inheritance.

59. Women must be specifically included in the land reform process. They should share in the utilisation as well as the ownership of land, in the disposal of its product, and in the benefits. One objective of land reform should be to bring women into mainstream productive processes, and into the modern economy as a whole. Small income generating projects may be useful to train women for these new roles, if training is necessary, but they are not substitutes for these roles.

60. Access to productive assets formerly treated as rights of common is being increasingly restricted by essentially lawless commercial development. Rights of common over forests, fisheries and grazing lands are among these. The communal nature of these assets should be restored, and their use and development reserved primarily for the local poor. Ecological considerations must also be respected.

IV. Landless Labour and Bonded Labour

61. Landless and bonded labour are among the weakest and most exploited sectors of the rural communities in South Asia.

62. The term landless labour is used to cover, in addition to agricultural workers, artisans, craftsmen, tenant farmers and 'near landless' farmers, i.e. small-holders who do limited subsistence farming on their land and who seek work elsewhere for up to half to three-quarters of the year. These workers may be classified in three categories (i) self-employed, (ii) wage employed, and (iii) partly self-employed and partly wage employed.

63. The major problems facing the landless labourers relate to wage rates, hours of work, medical care, old-age benefits and other social security services, migration in search of employment with consequent subjection to extreme form of exploitation and human indignities. The major problems facing the 'near landless' labourers relate to security of tenure, supply of inputs, sharing of input costs and produce, marketing and credit availability.

64. A bonded labourer is a person who is pledged to work for his creditor (or the creditor of a member of his family) against nominal wages in cash or kind until the creditor declares that the loan is repaid. The traditional village pattern is that the labourer borrows money from a wealthy farmer-cum-money-lender, at a usurious rate of interest. The labourer usually illiterate and consequently unable to question or challenge the creditors' statement of his indebtedness. He is employed by the creditor and paid at barest subsistence level in cash or kind. He receives well below any statutory minimum wage. In the case of the near landless, the debt is sometimes be paid off with produce from his land priced by the creditor at well below market prices. At harvest time the creditor may simply come and seize the crop.

65. A deduction from the wages, or the price of seized produce, is made by the employer towards payment of the debt and interest, but owing to the high rates of interest the labourer is never able to work off the debt. Indeed, his indebtedness is likely to increase by further borrowings or alleged accumulation of unpaid interest. If the bonded labourer seeks to leave his employment, he is likely to be beaten up by the creditor's 'muscle men' or, in other cases, arrested by the police on the basis of a false charge made against him by the creditor. Consequently, he is reduced to a condition of near slavery, and once bonded is likely to be bonded for life.

66. Offers to assist a bonded labourer to be liberated from his bondage are often rejected, partly from fear of reprisals, and partly from fear that he will be unable to obtain other employment and consequently be reduced to an even worse state of poverty and insecurity. It is often stated that the bonded labourer prefers the security of his employment to the uncertainty of seeking properly paid work. However, this security can prove an illusion, for example in a lean season when the employer tells the labourer to seek work elsewhere until he employs him again.

67. A more recent development has been the extension of the bonded labour system to migrant workers and their wives and children, employed in appalling conditions in such industries as construction, quarrying and brickmaking.

68. The problem of bonded labourers may be summarised as exploitatively low wages, forced labour, long hours of work, exploitation of women and children, false records of indebtedness, intimidation, lack or inadequacy of machinery for implementing legislation for their protection, lack awareness among the public at large, apathy of political institutions, and vested interests working for its perpetuation.

69. In India the Bonded Labour System (Abolition) Ordinance of October 24, 1975, later passed as Act 19 of 1976, defined bonded labour comprehensively, declared it illegal and discharged bonded labourers from any obligation to render labour or to repay debts. The definition includes any forfeiture of the debtor's right to sell at market value any property or product of his labour. This covers the palemmod system (agreement to sell standing crops against a loan). Any creditor who accepts any payment against a bonded debt was made liable to up to 3 years imprisonment and a fine. Vigilance committees were constituted to oversee its implementation.

70. In practice proceedings under the Act are often frustrated by intimidation of witnesses, including at times the bonded labour himself, who will deny his condition and claim to be well paid and well-treated. Another way of frustrating the proceedings is that the labourer is transferred to another work place or even sold to another employer.

71. Comparable systems to bonded labour are :

- the marriage debt labourer under which a bridegroom who cannot pay the bride-price works in the house of the bride's father for a stipulated period;
- various forced labour systems under which labour is rendered without payment under customary social obligations, such as forest guards forcing tribals to work without payment, or requiring the wife of a paid tribal to work without payment. Forced labour may also be extracted by powerful farmers simply under sanction of a serious beating if it is refused.

72. In spite of constitutional provisions for basic human rights and fundamental freedoms, and legislation to give effect to them, the exploitation of landless and bonded labour has increased in numbers and in its dimensions. For example, in India, landless labour increased from 27.5 million in 1951 to 47.5 million in 1971 which is in line with the population growth. However, in 1974/5 two thirds of the rural households were in debt, and the average indebtedness had more than doubled in the previous decade. Chronic bonded labour is reported to be around 5 million, but taking into account the recent wide interpretation of bonded labour by the Supreme Court of India, the numbers of bonded and other forced labourers in India may be as much as 50 million. In addition to India, bonded labour is widespread in Nepal and, to a lesser extent and with modifications, in Pakistan.

73. There is an urgent need for policies and programmes to arrest these trends and to ensure that the benefits of development programmes are shared in equitably by the landless and near landless, so that their condition is improved.

Recommendations

74. Development has a differential impact on different sections of society. In general, unless special measures are taken it will favour those who already own or have access to economic resources and will impoverish further those without these resources. To ensure that the gains of economic development are equitably shared, and that landless and bonded labourers can benefit from them, there must be a firm political commitment to comprehensive rural development policies which will:

- favour the disadvantaged sectors of society;
- promote decentralisation of decision-making;
- make possible and encourage participation by the people in the formulation and implementation of development plans;
- mobilise local human and material resources; and
- strengthen traditional grassroots institutions and help to create new ones.

Political commitment

75. As this political commitment is a pre-requisite for the introduction of effective measures to improve the socio-economic lot of

landless labourers and to abolish bonded labour, political parties and candidates at elections should be pressed to make their position clear on these issues. Greater awareness should be generated among the general public of their promises and commitments in this regard.

76. To promote a better understanding of these issues, the different parties involved, namely policy-makers, officials, representatives of rural organisations and grassroots NGOs should be brought together for training and interaction, as is being done experimentally in the National Centre for Rural Development in Pakistan. More frequent seminars, symposia and conferences should be organised with a view to promoting understanding of programmes and policies relevant to political commitment and accountability.

77. To make a reality of accountability and to sustain political commitment, the role of non-governmental grassroots organisations representative of landless labour and other disadvantaged sectors is essential. In countries where there are legal impediments to the formation of such organisations, the removal of restrictive legislation and procedures to facilitate and encourage the formation of such organisations is a first priority.

78. An important step in establishing this political commitment is the adoption and ratification by the countries of the region which have not yet done so of the International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights, and of the ILO Convention 141 and Recommendation 149 on Organisations of Rural Workers and their Role of Economic and Social Development.

Decentralisation and participation

79. To make the participation of rural workers organisations in a decentralised system effective and meaningful, access by them to all relevant information is essential. This includes information relevant to the formulation of policies and plans and to their implementation, as well as on their results.

80. To ensure that all local interests are represented, decentralised local self-government should be structured to provide for proportional representation of different interest groups. These groups may be further strengthened by their own grassroots organisations.

Mobilisation of material and human resources

81. At the present stage of development, the landless and the bonded labourers are unable to organise themselves effectively without assistance. Socially aware and committed sections of the population can play a crucial role through non-governmental organisations. For example, social action groups like Bhoomi Sena in India have been organising landless labour for sharing in development. Mobilisation of material resources, promotion of skills and the use of technology should be undertaken on an area basis so as to make possible development which will make use of available human resources without causing unemployment and migration. The technology should be appropriate and use locally available raw materials. This applies in particular to forest based industries and agro-industries. From among the traditional village industries, those which may be technologically upgraded should be identified and promoted. Similarly organisations like the Bandua Mukti Morcha (Bonded Labour Liberation Front) in India can help bonded labourers to organise themselves to secure their freedom.

Supplies and services

82. Essential supplies and services include farm inputs, water resources, credit facilities, marketing and legal services. Lack of credit on reasonable terms is the major cause of the indebtedness which converts the landless into bonded labour. It is recommended that the banks should be authorised to adopt a liberal policy for meeting the productive and consumption requirements of landless and the bonded labourers. This will call for an in depth study among the countries of the region with expert consultation.

83. Marketing should be organised so as to minimise the role of middlemen, as for example, by holding weekly markets like the Friday Bazaars recently introduced in Pakistan. Production of basic consumption goods should be as far as possible widely dispersed to make possible direct links between the producer and the consumer. Promotion of growth and service centres accessible to the villagers within a manageable radius, such as the Block System in India and 'Markaz' in Pakistan, are recommended.

84. Traditional rural institutions should be revived and strengthened as rural workers organisations. Their objects would include:

- establishing a co-operative system to assist the landless and freed bonded labourers ;
- promoting training in skills among the landless ; and
- helping to diversify and commercialise the agriculture of the 'near landless'.

85. Existing rural institutions like the Employment Guarantee Scheme and the Marginal Farmers and Agricultural Labour Agency in India, which have been created to cater for the requirements of landless labour, should be strengthened and non-governmental organisations should press for improvement in their performance.

86. The creation in Sri Lanka of democratically elected District Development Councils, and the related institutional framework under the District Minister involving grassroots organisations at village level (Gramodaya Mandalaya) and sub-district level (Pradeshiya Mandalaya), are examples of innovative institutions.

Special measures for bonded labour

87. Government departments entrusted with the task of identifying and rehabilitating bonded labourers need to be strengthened through the creation of a specially trained cadre of full time personnel for this purpose attached to these departments. In order that these departments do not lapse into a state of lethargy, there is a need to institute citizens vigilance councils which would monitor implementation and bring pressure to bear upon these departments to work effectively for the release and rehabilitation of bonded labour.

88. Legal procedures for the identification and release of bonded labourers should be simplified. The feasibility should be examined of creating special courts with speedy trial procedures, and investing non-governmental organisations with powers to initiate enquiries and to prosecute employers for putting labourers under bondage.

89. At the national level a non-governmental organisation with adequate funding should be promoted with the objective of facilitating identification, release and transitory rehabilitation of bonded labourers.

90. Minimum wages should be established in those countries and occupations where they do not already exist. In all countries the

machinery for enforcing these minimum wages needs to be strengthened.

91. United Nations bodies and other international organisations concerned with bonded labour are recommended to organise studies and surveys on the subject in the South Asian region in order to inform and awaken public opinion, and to monitor regularly the progress made in its abolition.

92. A seminar on bonded labour should be organised as early as possible for the countries of the region.

V. Tribals, Migrants and other Disadvantaged Minorities

93. Disadvantaged minorities includes any group that is unable to compete and live socially on a par with others doing similar work in similar spheres of economic activity, for reasons of education, economic status, caste, tribal origin, religion, ethnicity, sex, or migration.

94. When identifying disadvantaged groups, care should be taken to assess the forms of discrimination they are subjected to, rather than rely on the concerned groups' feeling of discrimination.

95. When providing protective discrimination to socially disadvantaged groups care should be taken to see that it does not provoke a feeling of reverse discrimination in other members of the community.

96. Development policies adopted by the governments in the region have sometimes themselves been responsible for the growth of disadvantaged groups, e.g., migrant labourers, or for the accentuation of their problems, as in the case of tribals.

Being inherently weak, disadvantaged groups are usually unable to organise themselves, and need grassroots NGOs to assist them and to intervene on their behalf.

97. The size and nature of disadvantaged groups vary from country to country in the region. For want of time, discussion focussed mainly two classes of disadvantaged groups, namely tribals and migrant workers.

Tribals

98. Tribals are groups settled in forest areas along the peripheries of major river valleys in the region. In India they constitute 7%

of the total population and the Indian Constitution has listed 427 tribal communities. In India and in other countries of the region tribals mostly live in the primitive stage of social development. This can be illustrated by the fact that in India according to the 1971 census only 17.63% of tribal men and 4.85% of tribal women were literate.

99. Tribals have for generations depended upon the forests to fulfil their basic needs of food and clothing. Forests also provided them with fruits, medicinal plants, herbs and raw materials for their household manufactures.

100. However, population increase and the need felt by the state to increase its revenue from forest products have disrupted the lives of the tribals. Deforestation due to felling of trees and conversion of natural forests into commercial forests has taken place. With the onset of commercialisation demand for forest land has increased and the tribals have been forcibly evicted. At times their land has been fraudulently purchased by contractors.

101. In India laws have been passed prohibiting alienation of tribals lands and providing for restoration of alienated lands. However, due to ineffective implementation of these laws exploiters have managed to circumvent them, and with the depletion of forest resources tribals have been forced to migrate and seek employment under harsh conditions, at times becoming bonded labourers. The tribals who remain in the forest areas are exploited by the traders-cum-money-lenders who charge usurious rates of interest and pay very low prices for the products of the tribals.

102. It is possible to check discrimination against tribals and to improve their backward socio-economic conditions by making full use of laws enacted for their protection. A concerted effort by non-governmental organisations is needed to organise the tribals. This process has already begun. For example, in India in the Uttarakhand region tribals protested against the mismanagement of the forests. A moment known as the Chipko movement became effective when the women of the area averted tree felling by protecting the trees with their bodies. As a result the government was forced to ban the cutting of forest trees over an area of 12,000 square kilometres.

Migrant workers

103. The rural poverty which is common to all the countries in the region has led to a massive increase in the number of migrant workers. The main type of migration is from rural areas to the cities, mainly to seek employment. These migrants usually end up as slum dwellers or pavement dwellers in the big cities. Being unskilled, uneducated and unorganised they are made to work excessively long hours in unhygienic conditions for very low wages. Some of the migrants become bonded labourers.

104. A recent illustration of the exploitation of the migrant workers was demonstrated by their exploitation in the construction work for the 1982 ASIAD games. A non-governmental organisation investigated the conditions under which they worked, and on the basis of the information they collected a writ petition was filed in the Supreme Court of India against the Union of India and the Delhi Development authority. In its reply the government admitted that the wages were paid to the contractors through whom the workers were recruited and the contractors deducted one rupee each per day as their commission, the wages thus being reduced below the statutory minimum.

105. Migrant women often become domestic servants in big cities. There are no laws to regulate their working conditions or wages and they are frequently exploited in various ways.

106. Another type of migration is the seasonal migration within the rural areas, particularly during harvest seasons. Workers from outside areas are engaged and paid very low wages. This migration of labourers within the rural areas contributes to the generally low level of agricultural wages. Whenever landless labourers organise themselves for better wages and working conditions, the landlords bring in workers from other areas to weaken the organised strength of the local workers.

107. A further type of migration in the region is the recent increase in the migration of workers to Middle East oil producing countries. In spite of the fact that these migrants have become a source of substantial foreign exchange remittances to the countries in the region, their own governments do little to ensure their protection against exploitation and various malpractices. The ILO, concerned with this exploitation of the migrants to Middle East, organised a symposium at Islamabad in May 1981, to consider

ways of improving the procedure for recruitment and placement, contract formulation and enforcement, and reducing exploitation by private recruitment.

108. Migrant workers are among the most highly exploited sectors of society and the laws intended for their protection are rarely implemented. Non-governmental organisations have tended not to take any or any sufficient interest in their problems, governments are generally apathetic and the trade unions are mostly hostile.

109. Related to this aspect of migration is the problem of the brain drain faced by the countries in the region. The migration of doctors, engineers and other professionals deprives the countries of the region of scarce expert resources for which the governments have spent large sums in education and in training.

110. Another class of disadvantaged groups are village craftsmen exploited by merchant moneylenders who both provide credit and market the finished products. The case of chicken workers in Lucknow, who do embroidery on garments and other textiles, were cited as an example. Groups facing displacement due to mechanisation of activities they have been traditionally engaged in and also among the disadvantaged groups. These include the traditional fishermen facing competition from fishing trawlers.

Recommendations

Tribals

111. Governments should take care to see that the traditional rights of forest dwellers are respected and their needs for fuel, fodder and forest based materials are met before marketing these products.

112. Involvement of forest dwellers in the protection, conservation and development of forests should be encouraged. Contracts for felling trees should be given to forest dwellers on a priority basis.

113. Governments should undertake schemes of afforestation and reafforestation of hilly areas and catchment areas to protect the people from soil erosion and floods.

114. The forest departments of the countries in the region should refrain from introducing monoculture for commercial purposes and opt for developing mixed or natural forests in the interest of forest dwellers making a living from forests.

115. Forest laws should be effectively implemented in the region to protect the forests and prevent fraudulent alienation of tribal lands.

116. Tribal youth should be provided with technical education, credit, raw material and marketing facilities.

117. The right of NGOs to organise disadvantaged groups should be recognised and legal protection should be ensured to them.

Migrant workers

118. Governments should accelerate the process of rural development to create job opportunities in rural areas so as to reduce migration of labour.

119. Governments should take care to see that the interests of the migrant labourers are protected by enacting and implementing relevant laws. Such laws should be disseminated to the migrant labourers and to officials at all levels.

120. NGOs should study the problems of migrant labour with a view to helping them to redress their grievances.

121. Existing laws for protection of migrant labour should be reviewed by NGOs to ensure their effectiveness.

122. To discourage the emigration of professionals which contributes to the brain drain, they should be required to serve their own country for a specified period of time after qualification.

VI. The Role of Women in Development

123. Women continue to suffer from an inferior status, compared with men, due to a combination of many factors such as discriminatory traditions, practices, laws, and economic policies and social norms, as well as misinterpretation of religious concepts, illiteracy, lack of skills, lack of awareness and complacent attitudes of women, acceptance of male superiority, segregation, the subservient role in the family of the wife and daughter, and excessive child bearing coupled with health hazards and malnutrition. The inferior status of women is reflected in the attitude towards a female child which is often considered a curse.

124. Though constituting nearly fifty per cent of the population in all countries, women are a 'disadvantaged' section in the context of human rights, and this in itself calls for urgent reappraisal of issues related to women and development.

125. Women play a crucial role in the rural agrarian economy. Though there may be differences in the functions performed by men and women, nevertheless the importance of their contribution to the production process cannot be underestimated. A study from one of the countries in the region shows that women, besides attending to all essential domestic chores, accounted for more than 50% of time spent for expanded economic activities like water fetching, fuel, shelter, food processing etc., and all this is done in addition to contributing half the male time input to conventional economic activities. In more than one country of the region, women were responsible for decisions pertaining to management of household resources, seed selection and application of home made manure, and entirely responsible for vegetable cultivation. However, in recent years the development plans and modernisation of agriculture have had a negative impact on women's participation in the labour force. Fewer women seemed to be participating in the productive process outside the home, and the work done by them is not being given due recognition.

126. There appear to be a number of reasons which have led to this state of affairs. Most development plans have treated women as a special group in need of "welfarism", and exclude them from general development plans. Extension training in agriculture, horticulture and animal husbandry is always directed towards men. Jobs like tailoring, pickle-making, which were unrelated or peripheral to the core economic activity of the region, were created for women. This implied a negation of their present contribution to the core economic activity, namely agriculture. Their contribution is not recognised as income generating.

127. The myth that women cannot do certain types of work is being nurtured. This is not in keeping with reality, since increasing migration of men to urban areas or the Gulf countries, as in some countries of the region, has made it necessary for women to perform functions earlier reserved for men. There is no evidence to prove that the economic contribution of such female headed households has been any less than the conventional male headed ones. Even the traditional prejudices that prohibit women from performing certain operations have been circumvented with the advent of mechanisation. For example, ploughing which was formerly prohibited for women, is now being done by them as drivers of tractors.

128. There is, therefore, a need to regard both men and women as beneficiaries of development plans, and not isolate women and make special plans for them, especially with regard to income generating programmes. However, to break the prejudice which has grown over the years and to bring about an attitudinal change it is necessary that in all allocations made for projects and plans a special allocation be made for women, so that the present practices of excluding them from such benefits as financial credit and land allocation, and discriminating against them in wages, no longer continue. There must be legislation to assure equal wages for equal work, and in countries where such legislation already exists, its implementation needs strengthening.

129. The absence of women from decision-making at the community level is an obstacle which needs to be removed. Women almost never participate in local councils and panchayats. The need to work outside the home during the day and attend to domestic chores on returning home leaves them with little time for other activities. Centuries of being restricted to the home has made them withdrawn and lacking in confidence. Their disinclination and apathy to participating in decision-making in the community are accentuated by the discouragement of women's participation by elders of the community, including the older generation of women who had no experience of it. Some have suggested that creation of women's panchayats might help them to become aware of the advantages of taking their own decisions, and give them the confidence they need.

130. Another disturbing factor is the growing violence on women which makes it difficult for them to participate in community activities and increases their tendency to withdraw into their homes.

131. In some countries of the region the introduction of Muslim laws has increased the discrimination against women. Though Islam itself may not discriminate against women, some interpretations of religious precepts have led to curtailment of freedoms, for example, restrictions on the mode of dress, limitations to participate in public affairs, including sports activities, and lack of educational and job opportunities.

Recommendations

132. Concerted efforts must be made to recognise the equal status and contribution of women, and eliminate discrimination against them in all spheres of life — economic, social and political.

133. The census needs to be reviewed and redefined with respect to terms like economic activity, household worker, and head of household, since these terms have obscured or made invisible the significant contribution of women in economic activities.

134. The impact of technological change on the female labour force should be constantly assessed to ensure that there is minimal displacement of women. In case of displacement the women workers should be given training in the new technology and employed on a priority basis. For example, if weedicides are used in place of manual weeding by women, the displaced women workers should be taught to sprinkle the weedicide and re-employed. The present practice is that men take over the work.

135. In training programmes in agriculture and allied fields special attention must be paid to giving training to women. A minimum percentage of women trainees should be established. The training programme should be designed keeping in mind the other responsibilities held by women.

136. The present practice of having separate income-generating programmes for women, leading to stereotyping of their jobs, should be discontinued and efforts made to integrate them fully in the development process. For this purpose in the initial stages a special allocation in all projects and plans should be earmarked for women.

137. Agro-based industries should be set up in the rural areas in order to create job opportunities for women as close to their villages as possible.

138. International development aid programmes should guard against adverse effects on women. Whenever such programmes are planned special care should be taken to assess the needs and problems of women.

139. Inadequate labour laws in the agricultural and rural unorganised sector result in low wages, long hours and unhealthy conditions of work for women. Labour laws should therefore be effectively extended to the rural labour force.

140. Equal wages for equal work should be guaranteed by legislation and in countries where such legislation already exists, there is need for more effective implementation.

141. Land laws should be amended so as to confer equal ownership of land on the women, particularly when land is distributed through land reform laws.

142. The traditional skills of women in such fields as handicrafts and healing should be recognised and encouraged. The process of modernisation should not adversely affect such skills.

143. To ensure participation of women, efforts must be made to eliminate all forms of violence in rural areas through laws and other means.

144. To enable women to assert their role and participate in the rural community, training in leadership and other skills should be provided. To facilitate this, training centres for women may be set up in villages. Provisions must be made for proper representation of women in village councils, panchayats and other administrative and development organisations.

VII. Population Control and Rural Development

145. The present rate of population growth in the region has adverse implications for planning and development within the existing social, economic and political framework. While systemic changes are needed to ensure a better distribution system and more rapid growth, the need for population control cannot be denied. In the less developed countries one of the main causes of population growth has been the increasing difference between the fertility rate and the mortality rate. The phenomenon has caused a rise in the proportion of children in the population, especially in low income households, causing neglect, oppression and forced child labour.

146. There was consensus in the group that while steps should be taken towards population control, it should not be through incentives and disincentives. The argument against disincentives is that these would work mainly against the poor sections of the society who for various reasons connected with their economic conditions are unable or unwilling to respond to the call for family control to the extent that would be required. The incentive system, on the other hand, has brought to the surface of the pheno-

menon of bogus certifications in respect of sterilisations and wasteful sterilisations of those who are either outside the reproductive age-group or have already completed their family size according to their norms. As it has been linked with the quota which a family planning worker has to achieve, the incentive system has brought into play intermediaries who not only exercise coercion on vulnerable sections of the community to adopt extreme forms of family planning, but also demand a percentage of the incentive money which is intended for the 'acceptor'. The withdrawal of incentives should not, however, lead to a denial of compensation to the family planning acceptor for loss of earnings during sterilisation.

147. In the implementation of family welfare programmes the right of women to choose freely the method of birth control should be recognised. For example, women with more than two or three children should not, as now often happens, be denied all temporary birth control measures and thereby compelled either to accept sterilisation or be denied birth control. Many women will reject sterilisation as they wish to be able to resume child bearing in the event of one of their children dying.

148. The population problem cannot be viewed in isolation from the existing global context which functions in a manner exploitative of the raw material producing countries, and appropriates the bulk of the resources of their work in favour of the developed countries. The population of the third world is mainly engaged in producing raw materials which are mainly provided to the more developed and industrialised countries. The price which the producer of the raw material gets from the purchasing countries is much less than the earnings he would get for equal labour in the developed countries. The result is that the population of the less developed countries are deprived of any appreciable development and are kept at subsistence level. It is this condition which provides the incentive for the population explosion in less developed countries.

Recommendations

149. Family welfare programmes should not be considered and implemented in isolation, but should form part of a total programme for rural development.

150. Such programmes should rely upon education and more readily acceptable facilities, and not upon incentives or disincentives.

151. Population control measures should rely upon education, more employment opportunities and better health facilities, particularly with a view to drastically bringing down levels of infant mortality and maternal mortality, which act as an incentive to greater population growth.

152. Recognising the link between infant mortality and non-restriction of families, preventive and curative health care directed towards children should be promoted on a priority basis and temporary birth control facilities adequately provided to women.

153. At the international level, the developed countries should restructure their trade practices to enable developing countries to make better use of their raw materials and other resources for the welfare of their population.

VIII. Health Services

154. Health, defined as the development, maintenance and utilisation of human capacities, is the goal of development. It must be generally recognised that people who have no control over productive resources have no control over their health. It is, therefore, clear that health care must be broad in scope, community based, participatory and linked to control over productive resources. Sickness and social impotence are virtually synonymous in developing countries.

155. Examination of the problems of health and sanitation and the provision of health services to rural areas lead to the conclusion that stress should be laid on the preventive aspect of medicine and on the provision of clean water and sanitation facilities, and not only on the curative aspect of health services.

156. Similarly more attention and greater resource should be given to providing facilities to treat common and minor ailments like scabies, dysentery, diarrhoea and occupational diseases, rather than to highly specialised treatments such as heart or kidney transplants. Priority should be given to training village level health workers in all rural areas.

157. The western-oriented education system and the modern elites who are its products eulogise the allopathic system of medi-

cine at the cost of the traditional systems. This tendency should be checked and traditional systems of Ayurved, Homeopathic and Unani medicines could be encouraged instead of relying solely on modern allopathy or making excessive use of antibiotics.

158. There is a need for more research into and collection of data concerning the traditional systems of medicine.

Recommendations

159. Governments should ensure that the health services are decentralised, locally managed, participatory and cater to the needs of the rural poor.

160. Governments should undertake massive programmes for the provision of clean drinking water and sanitation facilities in rural areas.

161. Governments should encourage the training and use of village level health workers and not rely solely on the provision of dispensaries and hospitals.

162. All medical graduates should be required to work in rural areas at least for one year before they are authorised to practise independently.

163. Governments should encourage research into the traditional systems of medicine. Such research should include identification and documentation of medical practices in different rural areas.

164. Grassroots NGOs working in the field of integrated development and/or public health should try to popularise the use of traditional methods of medicine, encourage research in these systems of medicine, and train local men and women as village health workers. Family welfare education should form a part of health programmes.

IX. Violence and Counter-Violence

165. The seminar examined practices of violence and counter-violence in their relation to the rural poor and the human rights problems and issues arising from such violence.

166. The violence to and by the rural poor cannot be adequately appreciated without recognition of the violence inherent in the existing social, political and economic structures and ideology in the countryside. This may take the form, for example, of unfair

wages, usurious money-lending, highly unfavourable share-cropping terms, tutelage, bonded labour, child labour, free services, untouchability, and dowry. Apart from this 'structural violence', other types of violence in the rural areas of South Asia may be classified as :

- lawful violence, i.e., the authorised use of force by state agents (police, armed forces and other law enforcement officers) to maintain law and order ;
- unlawful violence by state agents ;
- unlawful violence by powerful private individuals and groups against the rural poor ;
- violence by the rural poor in defence against and in response to the types of violence enumerated above.

167. While there is a general presumption of innocence in the case of violence by state agents or powerful private individuals or groups, the opposite (i.e., a presumption of guilt) tends to be applied to defensive violence by the rural poor.

168. Examples of unlawful violence by state agents are the widespread police abuses, which range from the much publicised 'blindings' in India to corrupt practices such as having a network of informers who get people to file complaints, whereupon the police demand money from both the complainant and the accused, and if it is refused beat them up and file false complaints against them.

169. Examples of unlawful violence by individuals are the money-lenders 'muscle men' who terrorise defaulters, beat them, seize their crops, search their houses or their person and seize their cattle, furniture, cash or valuables. Money-lenders have even been known to confine defaulters in cages after stripping them naked and applying chilli powder to sensitive points of the body.

170. Violence by powerful individuals and groups is increasingly practised to intimidate and terrorise leaders attempting to mobilise the rural poor for self-help. This takes various forms, such as burning of hutments, burning people to death, rape and other violence against their wives, or destruction of crops.

171. There is a general tendency to condone structural violence and to exclude it from the analysis of violence in the rural society. There is also a failure to recognise that the absence of effective

means of redress against structural violence will often be the cause of violence by the rural poor. While these concepts of violence may serve as a useful starting point, there is a serious dearth of empirical data to concretise further these concepts, as well as to devise practicable strategies for dealing with human rights problems associated with these various types of violence. The need for documentation and research in this direction can hardly be over-emphasised.

Recommendations

172. The absence or near absence of effective means of redress at local levels against unlawful and structural violence, and the unrepresentative character of the redress mechanisms where they exist, are potent causes of violence by the rural poor. The effectiveness of redressal mechanisms, including those involving community participation in conciliation, should be strengthened in order to facilitate conflict resolution and avoid violence.

173. In view of the evidentiary and other procedural difficulties that the rural poor face when attempting to bring criminal charges in cases of unlawful violence directed against them, non-governmental organisations, and perhaps even sympathetic government agencies working at local level, should assist in collecting evidence in such instances of violence.

174. When cases of intimidating violence against leaders of the rural poor come before courts of law, the courts should apply the severest sanctions available and where possible award punitive damages.

175. The right of self-defence of the rural poor should be recognised including the right to form their own organisations to protect themselves against unlawful violence. They should be assisted in this by both governmental and non-governmental bodies.

176. Innovative efforts should be made to secure greater community participation in normal patrolling and related police functions in the countryside, to combat violence being committed on the rural poor. These should include part-time village police or 'home guards' as practised in Bangladesh and Sri Lanka.

177. As violence by state agents against the rural poor is often the result of lack of understanding of their conditions, innova-

tive improvements should be made in the recruitment and training of police and other law enforcement officers so that they refrain from disproportionate use of force and unequal and insensitive application of the law.

178. Lawyers and non-governmental organisations should make increased efforts to document and analyse cases of oppression and violence against the rural poor.

179. Non-governmental commission of inquiry have proved to be an effective tool for informing and awakening public opinion nationally and internationally. In this way they bring pressure on concerned authorities to put an end to the violence being committed on the rural poor, and help to reduce the tolerance level of the society for such violence. Non-governmental organisations are urged to make increasing use of such inquiry commissions.

180. International and national donor agencies (e.g., the World Bank, Asian Development Bank, UNDP and the Agency for International Development) should develop mechanisms for taking cognisance of and responding to violence and deprivations which result from productive processes implicit in their funding policies. These organisations should include potential for causing violence among their criteria for evaluating funding proposals.

X. Legal Aid and Legal Resources for the Rural Poor

181. The law is very remote from the experience and understanding of the rural poor in most parts of the region. If they have any experience of the law and legal process it is usually when it is manipulated by powerful individuals and forces in order to deprive them of their land or otherwise oppress and exploit them. In these areas the rule of law simply does not exist. Rather, there is rule by unscrupulous elements who by threats, intimidation, harassment and corruption bend the legal process to their use.

182. Even where the rural poor are successful in litigation, the machinery for implementing court decisions is so weak that the decisions can be circumvented by their opponents. This is illustrated pointedly in the case of bonded labourers. Also, the numerous rounds of litigation, through appeal and review procedures, with interminable delays and mounting costs can render nugatory favourable judgments.

183. Lawyers and legal aid organisations will not be able by themselves to do much to remedy this situation. As has been seen in considering particular problems in the rural areas, the solution lies first and foremost in the organisation of the rural poor so as to constitute a countervailing power which can withstand this exploitation and oppression. Owing to their ignorance, illiteracy and poverty the rural poor need help and assistance in creating and sustain these organisations. Lawyers and legal organisations can play an important role in this process, particularly when working in collaboration with grassroots non-governmental organisations working with the rural poor to help them achieve comprehensive self-reliant development.

Recommendations

184. The contribution which lawyers and legal aid organisation can make is to apply their skills to :

- study the way in which the rural poor are being cheated and oppressed and otherwise learn about their true situation ;
- help them to mobilise and organise themselves so as to develop a countervailing power to combat their impoverishment ;
- inform them of their legal rights, including rights under national programmes of rural development, and of the ways in which the law can be a resource to enable them to secure these rights;
- give them legal aid and advice;
- protect them from those who misuse the law to harass and oppress them; and
- undertake critical appraisal of existing or proposed policies, legislation and administrative actions which impinge on their human rights.

185. As lawyers cannot work permanently at village level, they must find ways of creating permanent links with the rural population. The most effective way of doing this is by training paralegals, preferably recruited from the rural community. Paralegals can play a pivotal role in making people aware of their rights, undertaking preliminary investigations into their problems, and acting as a link with legal aid organisations or practicing

lawyers where legal assistance is needed. The training of para-legals is a major area where lawyers can co-operate with non-governmental organisations and activist groups. Para-legal work can also be undertaken by law students, and their doing so for a specified period should be accepted as a recognised part of their university curriculum.

186. Non-governmental legal aid organisations also have an important role to play in helping the poor to secure their rights. The first tasks should be to disseminate relevant legal information, to advise the poor about their rights and obligations and to seek ways of resolving their problems by negotiation or conciliation without litigation. Where necessary they should represent them in cases before the courts.

187. The governments of South Asia should recognise this role of legal aid NGOs and should encourage them and give them support, especially in cases where the governments are unable themselves to provide effective legal aid to the rural poor.

188. Legal aid for the poor who would otherwise have no access to the judicial system should be a constitutionally guaranteed rights. Its absence is a denial of the principle of equality before the law and constitutes unfair discrimination.

189. An important contribution is made by the legal aid scheme recently introduced by the government of India in several states. Under this scheme, a government appointed Board disseminates important legal information and provides free legal advice and representation by counsel to the rural poor who otherwise have little or no access to the judicial system. The success of the scheme depends on the co-operation of lawyers, judges and intended beneficiaries, as also on the funding commitment of the government. Imaginative efforts are made to bring the law to the people rather than the people to the law, by organising camps in rural areas at which thousands of cases are resolved at great saving in cost to the state as well as the litigants. It was felt that other South Asian countries should, with suitable modifications, introduce this scheme in their respective countries.

190. However, while the legal aid scheme in India is particularly effective in dealing with civil and criminal claims against the state authorities by the rural poor, it is not so successful when the

claim is against a powerful individual in his community (e.g., in the case of bonded labourers). In such cases, legal solutions have proved to be largely ineffective unless supported by a counter-vailing power through people's organisations to overcome the harassment and intimidation to which they are subject.

191. Another important development in India is the recent judicial activism of the Supreme Court in public interest litigation. Rules regarding standing have been liberalised and procedures simplified so as to help the evolution of new methods of securing the accountability of the administration at all levels. High courts and other courts in India should follow the Supreme Court in making their remedies meaningful to the ordinary man. Courts in other countries of South Asia are urged to study these developments and seek ways of adapting them to their own conditions.

192. Pursuant to a policy of bringing the courts to the rural poor, new instruments of dispute settlement should be formed at village level, such as conciliation courts, or traditional adjudicatory institutions should be revived and adapted. Once again, however, it must be recognised that these will not be successful unless the rural people have been helped to create their own organisations to defend their interests.

193. The effectiveness of legal aid is often severely undermined by delinquency on the part of those charged with the task of implementing court decisions. The judicial system must be strengthened to ensure prompt and effective execution of judgments.

194. Also, the competence of judges in many of the lower courts of South Asian countries has deteriorated over the years. One of the consequences is that justice is delayed through the piling up of appeal cases. The training, remuneration and career prospects of these judges should be improved in order to correct this situation.

195. As part of a programme of appraisal of the effects on the rural poor of existing legislation, lawyers in India are urged to examine ways in which some laws (such as laws relating to co-operatives or to the creation of societies and associations) and existing legal procedures (such as some features of criminal procedure) militate against efforts by the rural poor to organise and liberate themselves. Proposals for the reform of these laws and procedures should be formulated and submitted to the government.

196. Lawyers concerned with rural improvement should undertake a review of rural development policies and programmes to ascertain :

- whether and how law contributes to, or condones practices in the design and administration of development programmes which contribute to the political exclusion and impoverishment of people in rural areas; and
- whether and how law can be used to facilitate programmes for alternative self-reliant development, and to redressing conditions of exclusion and impoverishment.

197. Governments of the region should be pressed to adopt and implement relevant international human rights law supportive of the right of association, such as ILO Convention 141 on Organisations of Rural Workers.

198. Research should also be undertaken into the effect of legal provisions relating to the economy, in particular the rural economy, on transfers from rural to urban areas or out of the country, of economic surpluses generated through agriculture. Such research should also extend to the effect upon rural areas of legislation relating to such subjects as price controls, taxation, credit facilities, trade quotas, import tariffs, state monopolies over the purchasing, marketing, processing or exporting of crops, and control and accountability of public expenditure. The results of such studies should be widely disseminated to create awareness of the adverse implications of existing legislation for the rural economy.

199. In order that there may be genuine consultation with the rural poor about legislative proposals which concern them, and that they be informed of relevant changes in the law, these should be explained by governments in simple terms and widely distributed to the rural population in their local languages.

OPENING ADDRESS

Y. V. Chandrachud

Chief Justice, Supreme Court of India

I am very happy to be here for the inauguration of this Seminar on 'Rural Development and Human Rights in South Asia', for at least two reasons. The Seminar is being held in the garden city of India which I had last visited as a student way back in 1942. I have been longing over these forty long years for an opportunity to visit this city and I am glad that the Seminar has given me that opportunity. The Seminar is going to discuss problems which have vast and growing repercussions on the spread of civilization in the developing and under-developed countries of Asia. The various subjects which the Seminar will discuss in its Committees pose a problem and challenge before the Asian countries, and I consider it a great honour to be invited to inaugurate a Seminar of this nature and potential. I am thankful to the Secretary-General of the International Commission of Jurists, Mr. Niall MacDermot and the others connected with this Seminar for inviting me here today.

Despite all rhetoric, it seems to me that Asia lacks a significant socialist movement. The neo-classical economics have not yet been able to present a satisfactory explanation of economic inequality and discrimination. Although the gap between the poor and the rich has been bridged to some little extent, there are large segments of half-starved, half-housed and quarter-clad persons in the under-developed and developing countries, who are set apart from the affluent section of the society. While many of the legal and some of the cultural barriers to economic equality have disappeared by the force of the growing social awareness, inequality persists in the most naked form in these countries. It is necessary to make the peasants and workers aware of their basic human rights and of the means by which they can enforce those rights. The right to freedom from violation of the integrity of a person, the right to the fulfilment of the bare minimum needs like food, shelter and health-care and, lastly, the right to the

enjoyment of civil and political rights are indispensable for attaining the barest civilised existence. No political community which denies these rights or fails effectively to respect and implement them can have any claim to sit in the despairingly diminishing galaxy of civilised nations. Human rights are the most precious possession of mankind and a world which is without them will have to face a perpetual risk of moral impoverishment. It is not only necessary to realise but it is necessary to spread the message that human rights are not gifts or bounties to be begged by those who are denied them. Human rights make life worthy of its purpose and can therefore be demanded without shame, embarrassment or gratitude.

The theory that poor nations cannot afford the luxury of basic rights is a bogey created by those who have a vested interest in authoritarianism. Contrast, for example, these two statements: In an article by a representative of the Shah of Iran at the International Monetary Fund, the necessity for exchanging liberty for the ordinary means of subsistence, was expressed thus:

“In the third world countries suffering from poverty, widespread illiteracy and a yawning gap in domestic distribution of incomes and wealth, a constitutionally guaranteed freedom of opposition and dissent may not be as significant as freedom from despair, disease and deprivation. The masses might indeed be much happier if they could put more into their mouths than empty words; if they could have a health care centre instead of Hyde Park corner; if they were assured gainful employment instead of the right to march on the capitol. The trade-offs may be disheartening and objectionable to a Western purist, but they may be necessary or unavoidable for a majority of nation states.”

The opposite view was stated with far greater logic and coherence by a martial-rule opponent in Phillippines, Senator Diokno, thus:

“Two justifications for authoritarianism in Asian developing countries are currently fashionable.

One is that Asian societies are authoritarian and paternalistic and so need governments that are also authoritarian and paternalistic; that Asia's hungry masses are too concerned with providing their families with food, clothing, and shelter,

to concern themselves with civil liberties and political freedoms ; that the Asian conception of freedom differs from that of the West ; that, in short, Asians are not fit for democracy.

Another is that developing countries must sacrifice freedom temporarily to achieve the rapid economic development that their exploding populations and rising expectations demand, that, in short, government must be authoritarian to promote development.

The first justification is racist nonsense. The second is a lie : authoritarianism is not needed for developing; it is needed to perpetuate the status quo.

Development is not just providing people with adequate food, clothing, and shelter ; many prisons do as much. Development is also people deciding what food, clothing and shelter are adequate, and how they are to be provided."

I had had an occasion recently to say that abject poverty is a serious impediment in the exercise of human freedoms but that, neither community nor the Government can be justified in denying those freedoms on the alibi of poverty. Even the theory of justice of John Rawls whose commitment to liberty needs no canvassing, assumes that it is sometimes necessary to exchange liberty for economic growth. This premise is fallacious. No one can purchase economic growth by paying the high price of liberty. Liberty is valuable in itself in that it enables you to enjoy other rights. It is an essential constituent and an inalienable part of civilised life.

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.'

The ultimate good of the largest number of people is a feeble excuse for the violation of any of these fundamental rights. In order to secure effective development in developing and under-developed countries, it is necessary that the subject must have prompt and efficacious access to the tangible resources for achieving their basic needs, and to the intangible resources like education and information which alone can enable them to participate freely and fearlessly in the process of development.

Some of the proposed topics for discussion in the Seminar Committees are : Agricultural and Economic Policies, Land Tenure and Land Reform, Organisation of Farmers, Landless Labour, Bonded Labour, Women's Role in Rural Development, Legal Aid and Legal Services in Rural Areas, and, last but not the least, Violence and counter-violence: Police Methods. Each one of these subjects has a significant relevance in the context of the times in which we live. High-cost inputs like fertilisers and pesticides which are generally associated with capital-intensive technology are generally beyond the means of poor farmers. It is the unfortunate experience of poor nations that pesticides and chemicals, which cannot profitably or legally be used in countries where they are manufactured, are often dumped upon the third world agricultural workers and producers who indulge in their use without being informed of the dangers implicit in their use. Not only this, but sophisticated technologies often result in the concentration of the means of production in the hands of a few wealthy and powerful persons like the sugar Barons and mustard Barons in India. Such technologies tend to displace labour and can be ecologically destructive. Snakes eat rats and rats eat pests which destroy the crops. Pesticides may conceivably destroy all of these, thereby upsetting the natural balance between plants and animal predators. Worst of all is a danger from which the third

world has to guard itself against the affluent nations, high technologies tend to affect local control over genetic resources by transferring these to the charge of the multi-national corporations.

The interplay of human rights and agricultural policies is a complicated phenomenon which has an inbuilt element of unpredictability. To remove that unpredictability, it is necessary to remove the barriers of free association of rural people, to encourage the establishment of self-reliant federations of peasants and workers, decentralised governmental institutions in order to foster participation of the people in the planning and development programmes and to involve local organisations in schemes of land reforms, especially in regard to the distribution of surplus land.

Land Reforms have posed a great and insurmountable problem in some of the Asian countries including India. Agricultural land was hardly ever fairly distributed in our country and a large mass of landless labour was compelled by force of economic necessities to pour its sweat and toil on the lands of a few Zamindars and Jagirdars. The uneven distribution of land has created social and economic disparities, which, in turn, have created a grave social unrest. In India, every State Government has passed land reforms and ceiling laws which have not been effectively implemented even after 32 years of the inauguration of our socialist Constitution. The makers of our Constitution were inspired by lofty and noble ideals. Some of those to whose care the implementation of those ideals has been consigned have a vested interest in the perpetuation of inequalities in the matter of land distribution. Land reform schemes have foundered on the rocks of self-interest. One reason of this failure is that the redistribution of surplus land has not been accompanied by any effective and appreciable assistance to farmers which can enable them to obtain seeds and fertilisers as well as credit, transport and marketing facilities. Another cause of this failure has been the far too frequent interference by development authorities who enjoy retention of control over details of farming, which destroys initiative and self-reliance on the part of the farmers. The unfortunate result of this failure has been that even in countries where there are no large land-owners, a true grass-root democracy still remains a dream to be realised. Our experience also shows that the high purpose of land reforms has been defeated by the grabbing of surplus land by privileged and lawless groups or by a corrupt distribution by the distribut-

ing agencies to their friends and families or otherwise under the domination of political influence. It is necessary to appreciate that the true objective of land reform schemes has to be to make enough land available to the disadvantaged sectors of the rural community. Land distribution is not an end in itself but a means to an end. The farm workers have to be liberated from the bond of poverty and exploitation, which alone will enable them to conquer their abject conditions, subservience and dependence. The Indian Constitution protects laws of agrarian reforms from any challenge on the score that they violate the fundamental rights. That makes it all the more imperative that any scheme of equitable distribution of land has to be an integral part of a comprehensive scheme of agrarian reforms, with special accent on co-operative organisation for easy access to the means of production.

The problems of discrimination against rural women are too numerous to mention. Great and glaring inequality between men and women in rural areas has been perpetuated by an almost total lack of women's education and the traditional emphasis on the isolation of women in the process of decision-making in the affairs of the rural community. Women are the worst victims of obsolete and superstitious conventions which the uninformed rural community observes and revels in. Although equality before law is generally accepted as a high constitutional principle, hardly any efforts are made by or amongst the village communities to make women aware of their rights under the existing laws. Bonded labour is the inevitable fate of rural women and children.

All these can be met by a massive legal aid programme. The message of legal aid must be spread to the villages and that message is not that those who have cases to fight in courts will be provided with lawyers on payment of fees, but that the uninformed, illiterate rural community will be educated in the knowledge and awareness of its rights and in the means for enjoying and implementing those rights.

Ladies and gentlemen, it is a matter of great happiness that your Seminar is going to consider these and allied problems which are the life-breath of the Indian community which has a high rural bias. I do hope that your deliberations will not be conducted on an unduly high academic plane. I also hope that your conclusions

will be expressed in a language which will be easy to explain to those for whom the benefits of your discussion are intended. Your thoughts will consider pragmatism as a sheet-anchor so that the holding of this Seminar will become a boon to rural development. By this process, the air will be surcharged with the spirit of human rights and when that happens, a claim could be made that the Seminar has been successful. I wish the Seminar success.

INTRODUCTORY REMARKS

R. N. Trivedi

Director, Human Rights Institute, Lucknow

It is a matter of great privilege for the City of Lucknow, which has always stood for the finer values of life and for the Human Rights Institute in particular to be associated in this Seminar.

The Human Rights Institute is a modest effort by a group of lawyers, teachers and persons drawn from media and other disciplines to make human rights realisable. It is operating or rather trying to operate in three main areas: (1) evaluation of Laws which violate or tend to violate human rights and to suggest remedial measures; (2) education about human rights law and (3) to provide for legal assistance to groups and individuals who are subjected to violation of human rights. It is a non-governmental, non-political, non-profit making organisation with affiliate status with the International Commission of Jurists.

It is alleged and not without reason that there is an elitist approach to the problem of human rights and that it is the affluent sections of the society in relation to the State and the affluent States in the global context, which are the major beneficiaries of the cliché of human rights. What do human rights mean to the vast majority of illiterate and poverty stricken men, women and children in the third world? For the toiling peasants, bonded labour and impoverished children it remains a platitudinous utopia. Human rights thus cease to be treated as synonymous with civil liberties alone. Emphasis in the third world has to be given to the economic, social and cultural rights, though civil and political rights cannot be traded off for realising the former.

The Right to development has been variously described as a right of the third generation or instrumental right. I, however, feel that it is a consequential or a resultant right. If the civil and political rights and economic and social rights are faithfully observed, the consequence or the result would be development. Countries of South Asia had, in the past, been bound together by

a different kind of bondage. After having achieved political independence, they still share something in common. It is the stark poverty and neglect of the rural sector. Funds and assistance are diverted mainly towards the urban sector because they can lobby and protest, whereas the rural poor are unorganized and condescent. It is hoped that in the next few days the participants from various countries and from U.N. agencies will benefit from the sharing of their experiences, and help in devising a plan of action which would make life a little more bearable in the rural areas. I hope the Seminar will set the trend for a better tomorrow. I trust that in this battle against underdevelopment the alignments will not be between left or right but between right and wrong.

On behalf of the Human Rights Institute, I extend hearty welcome to the Hon'ble Chief Justice of India, who has inaugurated the Seminar, and to the Chief Minister, U.P., who in spite of his pressing engagements, was kind enough to agree to preside at the function. I also take this opportunity to welcome the participants from various countries and specialised agencies of the U.N. Last but not the least, I extend a very warm welcome to all who have found time to attend the inaugural function of the Seminar this afternoon.

INTRODUCTORY REMARKS

Niall MacDermot

Secretary-General of the International Commission of Jurists

On behalf of the International Commission of Jurists may I first say how deeply grateful we are to the Chief Minister and the Chief Justice for having honoured us with their presence today and opening this seminar in such a felicitous manner. Their participation testifies to the importance of the themes we have met to discuss, and augurs well for the success of our Seminar.

May I welcome you all on behalf of our organisation, both the participants in the seminar, and the judges and lawyers and others from Lucknow who are attending this opening session. We are all very sorry that Professor Upendra Baxi was unable, for reasons beyond his control, to be with us this morning to deliver his key-note speech. It is possible he may be able to join us later, but in any event we have to be able to distribute his speech to the participants. Mr. Clarence Dias, President of the International Centre for Law in Development, has heroically agreed to step into the breach. Knowing him as I do, I feel confident that he will prove a most worthy replacement.

May I first tell you briefly of the background to this seminar. As you may know, the International Commission of Jurists has for the last 30 years been seeking to promote and protect the Rule of Law and human rights in all parts of world. During the 1960s, when many countries of the third world were winning their independence, the Commission organised a series of big international conferences, which set out to define the principles of the Rule of Law in specific and practical terms. One of the first of these was the Congress of New Delhi in 1959, at which was proclaimed the dynamic concept of the Rule of Law, through which lawyers were urged to use their skills to promote economic, social and cultural rights, as well as civil and political rights.

At that time the lawyers of the third world were confident that on achieving independence they would enjoy free and democratic constitutions, upholding the Rule of Law. A few countries,

of which India is outstanding, have by and large succeeded in this, but most of the people of the third world have chosen, or have had imposed upon them, very different regimes in which fundamental human rights are seriously restricted.

Often the Governments of these countries seek to justify the restrictions by saying that they are necessary to enable them to make greater progress in economic and social development, to which they must give priority.

This has led our Commission to examine more closely the relationship between civil and political rights and economic and social rights, and the relationship between all human rights and the process of development.

In doing so we have become increasingly convinced of the interdependence of the two sets of rights, seeing them rather as one whole. Together, they are both goals and instruments of any true development commensurate with the dignity of man.

Development experts still tend to shy away from the concept of human rights, thinking, as they say, that it will 'politicise' the development process. This appears to us faintly ludicrous, as no decision is of greater political significance for a developing country than the model of development it adopts.

The nascent concept of the 'right to development' is a means of establishing the human rights content of development. True development is the development of human persons in all aspects of their lives. People and individuals are the active subjects, not the passive objects of development. Development assistance means helping and enabling people to develop themselves.

The keynote, therefore, of the right to development is participation, participation by the intended beneficiaries in the formulation, application and review of development policies. To make this a reality and not just a cliché, the people must have certain basic rights, — the right to organise themselves and formulate their demands, in other words freedom of association and expression. They must have access to relevant information at all stages, under the right to information. They must be allowed to share in political power, to share in decision-making, making a reality of their political rights.

Most human rights organisations have not interested themselves greatly in questions of development. They have been understandingly preoccupied with the grossest violations of human rights by repressive regimes, resulting in systematic torture, disappearances, assassinations and rule by fear, denying all civil and political rights. For the most part they have not had the time or the resources to dig deeper to ascertain the underlying causes of these monstrosities.

Similarly, development experts in the non-governmental field who have been working for an alternative self-reliant development, have until fairly recently had few links with lawyers to find ways to use the law and human rights as one means to help achieve their goals.

For some years now our organisation has been holding seminars bringing together interested lawyers and development experts to discuss ways in which human rights can promote human development. We have sought to discuss the topics most relevant to the region where the seminar is held. Thus we have held seminars since 1976 in East Africa, West Africa, the Caribbean, the Andean region of Latin America, in the Islamic world, in South East Asia, and now in South Asia.

The working papers and conclusion of all these meetings have been published in book form, as we hope will be done again this time.

On each occasion we have sought a co-sponsor from within the region concerned, and we are profoundly grateful to Mr. Trivedi and the Human Rights Institute in Lucknow for helping us in the organisation of this one. Together with them we have identified for discussion a large number of human rights issues we believe to be important to the development process in this region. Each of them could be the subject of a seminar on its own, but we thought it better in the first instance to review the field as widely as possible in order to show the scope of the relationship between human rights and development in this region.

The topics chosen for discussion in our committees include the impact of agricultural and economic policies, land reform, social structures in villages, landless labour, bonded labour, the

role of women, the population explosion, tribals and other disadvantaged minorities, migrants, violence and counter violence, health problems and services, and last but not the least, legal services in rural areas.

In most of the world, and I assume also in South Asia, the law and human rights mean little to the rural poor, who comprise well over half the population. They are ignorant of their rights, or do not know how to claim them. For them the law and lawyers are usually seen as instruments of their oppression rather than of their advancement and protection. Lawyers live in cities. How are they to reach out and understand, and be understood by, the rural poor?

These are some of the themes we shall discuss. It is an ambitious programme. Among our participants are many experts with practical experience of the problems of the rural areas. I hope, and indeed feel confident, that with their help we shall have a valuable and useful seminar.

KEYNOTE ADDRESS

RURAL DEVELOPMENT AND HUMAN RIGHTS IN SOUTH ASIA

Clarence J. Dias

President, International Centre for Law
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I

Despite several decades of rural development efforts, the condition of the rural poor in South Asia has deteriorated, not just in terms relative to the rest of the population but in absolute terms too. This has happened despite massive national and international spending on "rural development", and growing state control over the resources needed for rural development.

There is not much point in belabouring, with the wisdom of hindsight, the mistakes and failures of the past. There is also not much point in flogging dead horses. The paradigm of development that underlay such rural development failures, namely the modernization-industrialization-growth-trickle down model of development, has long since been discredited. The paradigm of law that underlay such rural development failures, namely instrumental legal liberalism, has also been discredited albeit to a lesser extent.

Today, there is growing rejection (at least at the level of rhetoric) of such paradigms. There is also growing recognition (once again at least at the level of rhetoric, both in national plan documents and policy statements emanating from international development institutions like the International Labour Organization, the Food and Agricultural Organization, the World Bank, and the Asian Development Bank) of the need for "alternative approaches" to rural development.

The search for such "alternative approaches" to rural development ought to provide the context for our work in this seminar. But, in my subjective opinion, if we are to make

progress, we must move away from purely economic conceptions of development towards a more humanistic conception of development. We must accept, as our starting point, the proposition that, in the countries in South Asia, rural development must begin with serious attempts at alleviating, and ultimately eradicating, rural poverty.

But rural poverty in Asia is not a product of happenstance. The continuing impoverishment of the rural peoples of Asia is, firstly, the product of an intricately structured and ruthlessly maintained set of political, economic and social set of *power relationships* often, deliberately entrenched in law. In some South Asian countries, these power relationships result from the growing transnationalization of agriculture. In other countries, domestic agribusiness proves to be as ruthless an exploiter as transnationals. But in any event, the problems of rural poverty are the problems of power (or lack thereof) and it seems important to stress that these power relationships are often established, entrenched and reproduced through recourse to law. Secondly, the continuing impoverishment of the rural peoples of Asia is the result of growing lawlessness of state agencies and officials (e.g., local bureaucrats, police, forest officials) entrusted with the administration of law and justice. Thirdly, rural impoverishment results from a patronage system that bureaucrats inevitably adopt when distributing essential resources (e.g., land, rural credit) under state development programmes. Fourthly, rural impoverishment may result from unintended effects of well-intentioned programmes and laws such as the green revolution programme of adopting high-yielding varieties of seed in India and the Philippines. These policies were undoubtedly intended to help increase national food production to meet national consumption needs. But in the process, the small and marginal farmers ended up becoming further marginalized and impoverished. The problem of equitable allocation of the benefits and burdens resulting from development remains acute since the benefits inevitably tend to accrue to the affluent while the burdens inevitably tend to get borne by the poor and the powerless least equipped to bear such burdens.

If indeed any serious attempt is to be made to change these unequal and inequitable power and dependency relationships, such attempts must involve the rural poor. After all, it is they who will ultimately bear the risks and face the retaliations resulting

from such attempts. However, individually, the rural poor lack resources and strength to combat impoverishment. Hence, it is now being increasingly recognized that it is necessary to develop independent, self-reliant and participatory organizations of the rural poor. Only through such organizations can the poor develop the crucially needed *countervailing power* effectively to combat their impoverishment.

The "alternative rural development approach" which stresses mobilization and organization of the poor, self-reliance and participation is being increasingly articulated in national policy statements. But if such rhetoric is to be taken seriously, let alone become reality, there are several tasks and roles that lawyers, particularly human rights' lawyers, must play:

1. in helping fashion a legal environment favourable to mobilization and participatory organization of the rural poor;
2. in refashioning administrative law—i.e., the law governing the administration of development programmes so as to secure greater accountability of state actors and also a greater sharing of development administration between government agencies and self-help organizations of the rural poor; and
3. in helping devise effective, regulatory frameworks to deal with transnational agribusiness.

One hopes that the deliberations in the seminar will help clarify these and other tasks and roles for human rights' lawyers who seek to help in the war against rural poverty.

II

Let us turn, briefly, to the proposed agenda for the seminar. The agenda presents a rich mosaic of interlocking themes and problems. If we can approach these themes with a unifying set of values and priorities, we will undoubtedly enter into discussions extremely complex problems — problems which are incapable of being resolved by simplistic solutions or panaceas. But let that not deter us but rather spur and strengthen our resolve to confront real-life problems howsoever complex they might be.

Working papers on 12 subjects have been provided to us for this seminar and six committees will be formed to discuss these subjects. The 12 subjects selected for discussion will enable us to explore seven major themes:

1. A national, macro-level examination of the structures and processes that produce and reproduce rural impoverishment, exploitation and misery through our examination of "Agricultural and Economic Policies" and of "Land Reform", we should be able to identify :

- (a) how the economic surplus generated by agricultural productions is being distributed both within the country and abroad ; and
- (b) the "terms of trade" between the urban centre and the rural periphery.

2. A micro-village level examination of the structures and process that produce or reproduce rural impoverishment, exploitation and misery — providing a bottom-up view will hopefully result from our discussion of "socio-economic structures at village level" and of "organizations of farmers". The first of these subjects will provide us with insights into existing power relationships at grass-roots level and the second of these subjects will hopefully enable us to explore the scope for change through organizing.

3. Access to basic resources essential to the rural poor is another theme we will be able to examine, especially with regard to land. Our examination of land reform experiences will hopefully provide us with a better understanding of the potential and limitations of state programmes attempting to secure basic redistribution of wealth and resources. Our discussions on health programmes will enable us to deal with a different but no less vital basic resource.

4. Agricultural labour will be the focus of a large part of our discussions (especially when we deal with subjects like landless labour, migrant labour, bonded labour and women as an important, if usually neglected, component of the rural labour force). The focus on labour is particularly crucial today. Increasingly, in Asia, we are hearing developmental decision makers affirm that the day of the small farmer is past. Our nations need to step up food production to feed their ever-growing masses (and indeed our examination of the subject of population explosion will undoubtedly serve to alert us to the "food-population time-bomb" that most of our countries in Asia are facing). The need to increase national agricultural productivity inexorably

has led to adoption of agricultural technologies (e.g., HYV seeds) and farming systems (e.g., involving increased mechanization) which have resulted in making the subsistence farmer end up as an agricultural labourer on the land that was once his. There have been interesting contributions in Asia by lawyers to the evolution of labour law. But agricultural labour has usually been a subject neglected by lawyers and policy makers alike.

5. The theme of affirmative action to combat historical, inter-generational injustices will receive considerable attention in our seminar when we focus on the subject of "disadvantaged minorities and social groups". We will inevitably have to grapple here with difficult problems arising out of the need to devise programmes of protective discrimination and compensatory justice which will not in themselves become the instrumentality for perpetuating new injustices and new dependency relationships.

6. The theme of violence in development is perhaps one of the most important themes of the seminar. Most of our countries in Asia are witnessing: violence resulting from defence of the status quo; violence resulting from attempts to change present-day impoverishing power relations; violence resulting from the gradual erosion of traditional social institutions and social structures by the process of modernization; and violence resulting from our inability to come to terms with our ethnic, religious and cultural pluralism. We have tended, because of our natural abhorrence to violence, to treat the issue as a "law and order" issue and, to a large extent, have avoided attempts to come to terms with the deep-rooted problems of which the violence is often merely an externally visible symptom: the tip of the proverbial iceberg.

7. Appropriately enough, for a gathering primarily, though not exclusively, of lawyers, the theme of legal aid and legal services in the rural areas will be addressed by the seminar. But here again, traditional approaches based on traditional conceptions of lawyering roles will be inappropriate and we will inevitably have to move increasingly in the direction of what Mulya Lubis (in Indonesia) and Jose Diokno (in the Philippines) call "structural legal aid". We will have to move towards a "legal resources approach".

Law, for too long, has been a resource for the exploiter. Can a new breed of lawyers make initial, even if modest, efforts to turn things around and help make law a resource for the poor and exploited?

III

Several caveats must be sounded here. State law, in most Asian countries is ridden with deep-rooted pathologies. Upendra Baxi, in his excellent book *The Crisis of the Indian Legal System*, has eloquently documented some of the pathologies of law in India. But these pathologies are not unique to India — they are endemic in the legal systems of most developing countries. Our legal systems are both alien and alienating to our masses. There is usually a monopoly over knowledge of law and of the processes to change law. Access to legal process is usually restricted and available often only through the intermediary of lawyers operating in what is undoubtedly a “disabling” profession. The professionalized delivery of legal services has created both dependency and escalating costs. Lawyers, inevitably, have tended to sell their services in a marketplace to the highest bidder. This has led to skewed development of certain fields of law. Thus, tax law or the law governing foreign investments may be highly “developed”. But laws having a crucial bearing on rural poverty (e.g., laws relating to bonded labour or more generally to agricultural labour) remain riddled with inadequacies. Our laws and legal institutions seem to have been developed to be geared to the needs and interests of the rich, the powerful, the transnationals. Law at present tends to be status quo-oriented and therefore not a particularly effective means to securing a redistribution of resources or of power. The cumulative effect of these pathologies has made our legal systems an instrument for the production and reproduction of exclusion, dependency, impoverishment and evasion of accountability.

Thus, if law is to indeed be a resource for the rural poor, we must strive for an “alternative” conception of law — law for a society whose vision reaffirms self-reliance, participation, endogeneity, redistribution of resources and power, and development, above all else, of the human being.

IV

This vision of "alternative law" poses unique challenges to Asian human rights lawyers. Can we work towards making existing international human rights law (and especially economic, social and cultural rights) a resource in the struggle against rural impoverishment? Can we work to evolve a new generation of human rights to better serve this struggle: rights that help secure self-reliance, participation, accountability and effective redress of past inequalities? Can we help fashion a truly human right to development?

The jurisprudential challenge lies ahead of us. But the moment for launching such a challenge is already very much with us today. A combination of quite diverse factors provide unique present-day opportunities for undertaking "alternative" rural development and human rights' initiatives:

1. A succession of global energy crises have left in their wake highly energy-dependent agricultural systems in Asia. We are now forced to turn away heavy petro-chemical-based agricultural inputs in our efforts to increase or even maintain present levels of agricultural productivity. The need of the hour is for innovation and such need will favour experimentation with "alternatives".

2. The present global recession and the coming bitter trade wars (which seem all the more imminent after the recent failure of GATT negotiations) have combined to make the export-oriented industrialization model of development no longer feasible for "latecomers" in South Asia.

3. The population time-bomb is ticking away inexorably, adding a new urgency to the need for greater rural development.

All these factors combine, both to bring a new sense of urgency to the problems and to force a rejection of the traditional approaches to rural development.

Fortuitously, all of this comes at a time, when legal activism is at its zenith in Asia. In India, at least, there has been over the last few years a dramatic increase in what Upendra Baxi (our absent keynote speaker) would term "social action litigation". There is now an ever increasing number of legal activists involved with:

- consumer groups ;
- environmental groups ;
- minority rights groups ;
- civil liberties and human rights groups ; and
- women's rights groups.

There is a strong and innovative legal aid movement in India under the visionary leadership of Justice Bhagwati who will, hopefully join us later in this seminar.

But this wave of legal activism in India has suffered from pursuing, in an ad hoc manner, several disparate, but potentially interconnected objectives such as: access to law, access to and redistribution of basic resources, political accountability and reform of the administration of justice.

What has been missing has been an attempt on the part of these diverse groups of legal activists to look more closely at shared values, shared interest, shared goals, and therefore, potential *common* strategies. This has led to both fragmentation and a certain amount of dissipation of energies.

It is time, perhaps, for introspection: for the various legal activist groups to seek answer for themselves as to what *vision of society* they are pursuing through their legal activism.

The alternative rural development approach, stressing the values of human dignity, self-reliance, autonomy, participation, endogeny and dealienation provides a useful frame of reference emphasizing as it does the remodelling of development as a grass-roots, bottom-up, participatory process. Of course, such a value framework needs to be refined within our specific national, cultural contexts.

The persistent impoverishment, often on a growing scale, of rural people in Asia provides to my mind, a unifying social action framework for legal activists. The misery of the rural masses in Asia provides ample justification for legal activists in Asia to single out the struggle against rural impoverishment as a single, unifying theme for action. In my view, no greater justification seems necessary. No lesser justification seems satisfactory.

Such a coalition of legal activism around the struggle against rural impoverishment could go a long way towards helping make

law a resource for the disadvantaged, the marginalized and the impoverished in rural Asia.

But legal activists in Asia must approach their tasks with realism and with humility: realism regarding their expectations from law; humility regarding perceptions of their own role.

Unless lawyers are willing to provide their services to impoverished groups in ways that will not undermine, but rather enhance, self-reliance and participatory decision making of the disadvantaged group, legal activism may end up creating and perpetuating new dependency relationships.

Let me conclude with thoughts expressed by a terribly impoverished community of rural sugar workers in the Philippines. This community, albeit impoverished in a materialistic sense, are far from poor in spirit. This community encapsulated their experiences of state programmes supposedly for their development and of paternalistic, charitable efforts by "do-gooder" groups to help them, in the following words of a community song:

Is it enough, for you who pass by
To stop for a while and then say goodbye?
Is it enough, is it enough
To live and let die?
No, it isn't enough.

THE RIGHT TO DEVELOPMENT*

Extracts from an address prepared by

Upendra Baxi

The convening of this seminar by the International Commission of Jurists is a noble initiative, designed to further develop the right to development. It does require courage, even for a veteran NGO like the Commission, to explore the features of resistance to human rights that really matter, and in regions which, although sensitive to such rights, are far from being hospitable to their actual implementation.

The seminar, I am sure, will have many a constructive fallout in the region. Among these will be, I hope, the realization that lawpersons in South Asia can serve the cause of human rights much better if they were also to aspire to become jurists, rather than remain blackletter practitioners of the law. The lawyer's craft is mainly that of a technocrat, specializing in forensic manipulation of verbal and normative categories of the law, in the legislative, administrative, corporate, legal or judicial chamber. His services are offered in the seller's market and more often to the dominant group's betterment. The lawpersons, be they lawyers or judges, are at the same time the best transmitters of the rhetoric of the rule of law in contemporary societies; and they, not always but often, rise to the defence of human rights in crisis situations. Not merely their culture, but their livelihood, depends on the survival of the lawyer's law, which they identify usually with the "rule of law". But until crises arise, it is business as usual for them.

Jurists, on the other hand are creative lawpersons for ever struggling to pour the substantive content of justice in legal systems and lawyers reasonings. They worry about the ends of law and the relation and tasks of law to social transformation. Their vision extends beyond the law to history, society, technology and culture, and they possess the gift of imaginative techniques to weave it into community-wide rights and obligations. They join

* Circulated to the participants.

the struggle for a just, social, national and global order. They are in the front ranks of the architects of new social orderings. They seek to unmask the illegitimacy of the illegitimate power and add strength to the legitimacy of the justly wielded power. In doing all this, they are not free of ideologies; but the ideologies are of their own preference and tamed not by a will to power but a will to justice.

Jurists of this stature have shaped the foundation of international law — Hugo Grotius who launched the doctrine of *mare liberum*; Fransico Vittoria who, against all Papal authority staked, on extension of principles of Christianity, the basic rights of the denizens of the New World in South America; Emer de Vattel who cut across the lines of theological imperialism and secularized the doctrine of the just war. And jurists who today propound the right to development are of the same category, as anxious and as able to serve the cause of all mankind, regardless of the perils of the new advocacy and promises of loyalty to the old ones.

This Seminar presents the classical and historical role and function of the jurist to the mere lawpersons in South Asia. And I am convinced that whatever we propose to mean by “development” in Asia, conversion of lawpersons into jurists must be an essential conception of it. The spread of the culture of new international law, and of the prominence of new emanations of justice within it, is the task of jurists everywhere, but it is more imperative for all Third World Societies, South Asia particularly included.¹

The Seminar is also important for the ‘action people’ in South Asia. Not merely does it bring good tidings of solidarity with them from what their grassroots experience trains them to regard as the most unlikely fraternity — the jurists. It also offers them the unusual assurance that the newly emerging movement of human rights is, after all concerned, not just with the political

¹ It is well to remember, not out of any Third World Parochialism but rather out of Justice to contemporary history, that almost every single major idea for a just world order had its origins and articulation from spokespersons in the Third World (e.g. “the common heritage of mankind”, “the NIEO”, “non-alignment” and finally the present formulation of a “right to development” given to us by Kéba Mbaye).

'superstructure' rights of the resourceful but also the grassroots rights of the poor. And that the new right to development provides a jural structure to conceptions of Another Development which has as its cornerstone the values of human integrity (through satisfaction of basic needs through protection of the mind and the body), autonomy, self-reliance, participation and dealienation. To the social action groups working for creative expansion of social and political space in South Asia, as indeed in the Third World, the new conceptions of the right to development bring with them useful novel tools and techniques to further that end.

And a Seminar like this is no one way traffic. The right to development is no cargo cult. It is an evolving paradigm which, paradoxical though it may seem, is being fostered actively by the Third World governments, human rights elites everywhere in the world, and the NGOs. Fuller concretization of the right to development depends on the feedback from socio-political activists who have for reasons of scruple or time kept themselves outside the mainstream of human rights formulations. In this sense, too, the Seminar must be regarded as a part of a historic dialogue begun barely a decade back between and among a variety of change entrepreneurs throughout the world, arising from a cumulative dissatisfaction with the growth-oriented, trickle-down, top-down, Eurocentric, and dependent models of 'development'. The search for a new model requires nourishment of human rights thinkers by human rights doers.

The theme of the seminar, too, takes us where the people and their problems are (namely, rural South Asia) and wherever "development" ought to be, away from the modern exploitative Taj Mahals of national development to huts and hovels of human suffering and deprivation in South Asia.

I am moved by the poignant fact that this Seminar begins on the very day the carnival of Asian Games ends. I know that this is no part of the design in organizing this Seminar. But all of us might wish to acknowledge, perhaps, that it is latent in the design of development which South Asian countries have chosen to follow.

There is a telling symbolism in these two events, which I crave your indulgence to explore briefly.

An amount close to Rs. 500 crores (the visible expenditure) is said to have been spent on this event.

It has proved that India has the capacity to organize such events impeccably and in a short time. Undoubtedly, making India, and particularly New Delhi, ready in record time was a splendid rebuff to all those who doubted the prowess of Indian bureaucracy.

Compare this with the situation just preceding the Games. The time taken in declaring certain areas as "draught" areas for famine relief, the inefficient, from the standpoint of the victims, organization of disaster relief for cyclone-hit areas of Andhra and Gujarat; the inability of the state to do much about the ten million or so children under the age of six years dying of malnutrition every year, the lack of resources to provide primary schools in rural areas, and to rehabilitate the "liberated" bonded labour or even to make construction companies obey the labour laws without a spirited directive by the Supreme Court of India, and you have a different picture of India's bureaucratic prowess.

The co-existence of an international sporting event proving India's mastery over necessary organizational skill and talent, and its inability to organize a just programme of relief for her already destitute people, in its contemporaneity symbolizes the costly dualism of development, plaguing the development models adopted by or imposed upon the peoples of South Asia. It reveals within developing societies of South Asia, as those of the Third World, a centre and a periphery: The middle-class centre comprising the urban and the new-rich rural bourgeoisie and the impoverished "masses" in the rural areas, and lumpenproletariat in urban areas, constituting the periphery. One does not have to copiously cite evidence to go one step further to say that the centres in the Third World are also almost organically linked to the centres of a global system, whether of the First or the Second world.

The peripheries are not so linked. The right to development is historically meaningless if it fails to articulate pathways of such linkage. Fortunately for mankind, it seems potentially poised in the direction of making peripheries cohesive and interlinked.

Much of human poverty is systematically created by men. Marx long ago made a distinction between "natural" poverty and

"artificial" poverty. "Natural" poverty arose from forces of nature, leading to unequal or meagre access of a whole community to certain resources necessary for survival and development or certain geophysical vulnerabilities, especially of wind and weather. On the other hand, "artificial" poverty arose from the forces and relations of production. Modes of development, are in essence, a late twentieth century euphemism for modes of production. In any case, the distinction captures the great truth that most human poverty arises out of planned acts of choice on behalf of the ruling classes or elites or "policy-makers" (a less value laden term!) In this sense, we should be more candid. Instead of talking about poverty, we should talk about processes or dynamics of impoverishment. And the euphemistic label "developing societies" (DS) needs by the same token to be substituted by the less elegant, but more realistic expression "impoverishing societies" (IS).

Even as we struggle to promote notions of the right to development, we must not fail to note the paradox posed by the South Asian Societies in relation to the more traditional rights-models contained in the two international covenants on human rights. Only India and Sri Lanka of the South Asian countries have ratified these covenants, and that too fairly late in the day, and yet many of their Constitutions (as of other South Asian societies) embody declarations of human rights not too dissimilar to the international covenants.

Equally striking is the oft-noted paradox that while South Asian countries are second to none in the promotion of the New International Economic Order and the just resource distribution struggles, like the treaty on the Law of the Seas, and the Strategy on meeting Basic Needs as means of removing global inequities, they are not found to be in the forefront of a 'hot pursuit' in doing their very best in removing inequities nearer home.

In other words, there are antinomies and tensions in South Asian approaches and positions to human rights which need comprehension and explanation. To some extent, these must be related, in my opinion, to the responsive (in the sense of redemption from impoverishment) and regressive (in terms of seeing impoverishment as unproblematic) elements in the traditions and transformation in modern South Asian societies. I hope and trust that this Seminar generates as an aspect of the movement for the realization

of the right to development in the region, a valuable beginning towards the identification of social and cultural formations leading to planned impoverishment.

In the South Asian context, by and large, political repression is a reality. Authoritarian and military regimes are characteristic of the region and not only the weak-hearted now begin to ask the question as to how long the miracle of Indian democracy can really last. One hopes that it would last and spread in the region. But power politics does not always keep company with human hopes. Be that as it may, it is of supreme practical importance for the creation of socio-political space, not just in authoritarian and military regimes but even in democratic regimes in South Asia, to employ the strategy of needs, not only of rights, and to keep translating needs into rights by available forms of political action.

I am emboldened to say this from my dialogues with a number of Asian activists. They have always regarded with admiration my accounts of the uses of law in India to check administrative deviance, governmental lawlessness and dominant group repression through recourse to the Supreme Court.² But they insist that this cannot just be replicated elsewhere in Asia. They remind me that there is more political space for social action groups in India; and also a relatively more independent judiciary, amenable to justice-claims of the rural poor. Courts are clearly not the only forum where rights may be secured and injustice corrected, though in some senses they can do so most effectively. When that forum is unavailable, people have to develop political space through other instrumentalities. In one-party democracies or authoritarian systems or military regimes, such instrumentalities may seem to others as non-existent. But this need not be necessarily so.

Indeed, there are notable success stories where social action groups have corrected excesses of power by focussing on realization of human needs, rather than human rights, in the teeth of authoritarian regimes. And these movements have covered diverse beneficiary groups; landless labourers, sugar plantation workers, women, children, slum and pavement dwellers, forest-dwellers etc. Small groups of people are told what the government says it is going

² U. Baxi, "Taking Suffering Seriously: Social Action Litigation Before the Supreme Court of India", ICJ Review No. 29, December, 1982; for an enlarged version see the *Festschrift in Honour of Mr. Justice V. R. Krishna Iyer* (forthcoming, 1983; R. Dhavan & S. Khursid ed.).

to do for them to meet their basic needs; authorities responsible for fulfilling these needs are identified; so are authorities for redress in case of default. Strategies of petitioning, representing, using the media are also discussed. Consequences of attendant risks highlighted, and ways to meet repression identified. Legal inputs are provided. In most cases, the decision is made by participatory processes and in most cases rural people's groups have successfully launched a small scale movement from a national standpoint but won a substantial victory for their own communities in terms of meeting community basic needs. The emphasis here is on manipulating the bureaucratic contingencies through an organized exploitation of pro-poor legislation and public rhetoric of justice by the *el supremo*. These success stories would be impossible on the premise that the right to development must always combine satisfaction of basic human rights with basic needs. The needs, depending on the development processes initiated from the people, may yield to an enhanced respect for rights; if not that, at least — enhanced space for political action. No small gain indeed.

Satisfaction of basic needs, material and non-material, is an existential concern with people who themselves very often find the language and idiom of rights alienating. In slums no one has heard of the Universal Declaration of Human Rights or Declaration on Habitat; in interior Adivasi villages in India not many know or understand the conception of fundamental rights; millions of Asian women have yet to know about the International Women's Year and Decade; rural workers have no idea of convention 141 of and recommendation 149 of the ILO granting them rights to organize. The 'rights' model, it should not be overlooked, is an elite model in the sense that it does not, in South Asia, at least form part of the vocabulary of the ruled. How can it when it has failed to become a part of the vocabulary of the rulers? Of course, that situation has to be radically altered through human rights education. Perhaps, the basic needs approach, if not designed to do that, might yet be used to accomplish it.

People know their existential needs. Or even if they are used by constant deprivation to accept a lower biological floor for human survival,³ the experience of that deprivation is far from a

³ I borrow this concept of biological floor from Professor D. H. Banerjee's analysis *Poverty Class and Health Care in India* (1982).

faint memory. For social and political activists, it is relatively easy to mobilize people around their needs, by alteration of their reference groups. Any success in strategies of fulfilling their basic material needs not merely makes groups more cohesive but more articulate concerning other non-material needs. The anxiety that South Asian elites could opiate their impoverished masses with such heavy doses of material basic needs fulfillment that they would forget to ask for their rights is yet far from proven, even at the level of simple scenario-building.

Nor need we altogether dismiss the idea that a return to democracy or at least another coup in the name of the people, is the constant nightmare to many a dictator! Non-political dissent action is often tolerated in authoritarian and military regimes as a substitute for political dissent, even if as a means of securing of international bureaucratic accountability. I know that it is dangerous to generalize about authoritarianism, and military regimes which are of protean variety.⁴ Often, insane violence is all that they offer to any kind of dissent, political or otherwise; and the paranoid elements in power do not even wait for concrete occurrence of such dissent. But South Asia has, barring a couple of transient episodes, not produced regimes so cruelly repressive of any and every kind of public opinion or dissent. Not for a moment, does this statement minimize the sufferings of the people. But authoritarian and military regimes in South Asia, even when they swiftly repress political dissent couched in the language of rights, have on available evidence not come down equally heavily on dissent couched in the idiom of needs. The point simply is that there is space — political and social — for mobilizing people for assertion of needs, especially basic material needs. And the international human rights order, now culminating in this right to development, undoubtedly has the potential for further enlarging this space.

I beg you to consider most earnestly at this Seminar whether at the level of conceptual analysis or that of strategic action, we do really need to be haunted by the raging controversy among the proponents of human rights to development as to whether priority

⁴ See the analysis R. Falk, "A World Order Perspective on Authoritarian Tendencies", V *Alternatives* 127 (1979-80); R. Luckham, "Armaments, Underdevelopment and Demilitarization in Africa", VII *Alternatives* 179 (1980-81).

should ever be accorded to basic needs over human rights. (Or what perhaps amounts to the same thing, whether some rights should have priority over others). The controversy would have made sense if the right to development was proclaimed as merely the right of states to develop, in which case they could have justified massive denials of human rights on the plea that they were thereby meeting basic needs (that is the most minimum material needs of the poor). But the right to development now also extends to people; it has been proclaimed as access to equality of conditions of development for individual human beings. And development has been redefined to include non-material needs including participation, autonomy, self-reliance and dealienation. In other words, material basic needs have to be so fulfilled as to further, and not frustrate, development thus conceived.

I apologize to grassroots men and women amongst you for raising what may appear to you as a non-issue in your activist experience. And I apologize to the right to development protagonists for making appear a live issue among them to be a non or side issue. But seminars on the right to development, bringing together human rights formulators and human rights doers, must anticipate sudden pressure to return to reality on both sides.

There were many more things to say, particularly concerning obstinate attitudes of many social action groups in South Asia which makes them forego the uses of law as a liberating strategy. Poor people are nihilistic in their approaches to law and legal systems, which they have experienced as a source of injustice, tyranny and a cruelty. Fostering such a perception of the law is precisely a part of the strategy of the oppressors. When poor people's organizations fail to stress the liberational use of the technique of law (including repressive uses of law against repressors themselves, turning of the tables, as it were: e.g. filing false cases against the police in return for false cases against landless labour) they indeed strengthen law as repression. Many insurrectionary uses of law and jurisprudence are possible on behalf of the rural poor. And these strategies can be modulated, regardless of the nature of the repressive systems.⁵ To write off the law as

⁵ U. Baxi, "Legal Mobilization of the Rural Poor" (mimeo: ESCAP/Marga Paper, 1981); U. Baxi, "Towards Organization. Relevance of Legal Resource for Participatory Organizations of the Rural Poor: the case of Chipko movement" (ICLD paper, 1979; mimeo).

a resource is to overtax modalities of direct action; and when direct action particularly means baring one's chest to the oppressor's bullet, ideological or ignorant disregard of the pro-poor manipulability of the law becomes subversive of the rural poor's need and rights.

Similarly, there are exciting possibilities of institutionalizing countervailing legal power by appropriate movements in South Asia demanding that the legislation, in its design and detail, incorporate elements of regulation of the bureaucracy by the people just as they incorporate regulation of people by the bureaucracy.⁶ The entire set of values subsumed under Another Development call for a recasting of the idea of legal systems, in the Third World. But some of these ideas have been elaborated elsewhere. And I remain sure that a lot of information concerning liberational uses of law, and lots of ideas concerning design of the legal system to serve the right to development (Another law for another Development) will emerge in your deliberations.

The challenges are fascinating and brook no further delay. Action is where people are. And future development of the right to development itself depends as much on participative, self-reliant and dealienated modes of thought as well as action.

⁶ U. Baxi, "Towards a Design of Countervailing People's power in Forest Law and Administration; Agendum for Democratic Law-making" (forthcoming, 1982 in a volume of essays on the forest bill and policy, Indian Social Institute, New Delhi 1982).

COMMITTEE I — AGRICULTURAL AND
ECONOMIC POLICIES

**AGRICULTURAL AND ECONOMIC POLICIES :
THEIR EFFECTS ON THE RURAL POPULATION**

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It is worth our while to view the topic of this paper from the standpoint of the village where, in the final analysis, the agricultural and economic policies of India should have had an impact over the last three decades. We have had enough of global, national and regional views and policies of governments on how to improve the lives of the rural poor. The fact that it has made very little difference to their ways of living and thinking is more a reflection on us than on the recipients. It is time we took stock of this situation and asked ourselves why the economic and agricultural policies have failed to benefit the poor? When we know aid is not reaching them and is being misused by the rural rich, why are we carrying on making the same mistakes? These issues need to be examined.

When we talk of the rural population we must be clear which population we are talking about. If it is the rural poor, then they live in a world of their own. The Asian Survey of Agrarian Reforms and Rural Development (ASARRD) sponsored by the Food and Agricultural Organisation (FAO) indicates that in India about 70% of the farmers are small farmers because of the effect of fragmentation of holdings and the increasing sales of land to better off farmers. Small farmers tend to decline into subsistence farmers and many of them have become landless labourers because they do not have access to credit or farm inputs. More than 350 million of the rural poor fall into these former categories and still more are joining the ranks of the landless and the farm labourers. Sixteen per cent of the total working population are landless. Small holdings constitute up to 70% of the total holdings of land but the total area cultivated by these farmers is only 20% of the total available land.

It is the policy of the government to see to the interests of these people. In their name, colossal infrastructures have been created — The Small Farmers Development Agency (SFDA), The Marginal Farmers and Agricultural Labourers (MFAL) Agency, The National Rural Employment Programme (NREP) : many of these agencies have been merged into what is now called the Integrated Rural Development Programme (IRDP) and this programme is implemented through the District Rural Development Agencies (DRDAs) all over the country. For the scheduled castes and scheduled tribes there are separate schemes and separate subsidies for land development, provision of drinking water and other facilities. The policy of the government calls for strict implementation of agricultural land ceilings and distribution of surplus land and review and effective enforcement of minimum wages for agricultural labourers, but witness its impact at the village level — it is virtually non-existent. According to the Central Standing Committee on Rural Organised Labour there were two periods when land ceiling measures were initiated on a large scale. The first was in the late 50s and early 60s when 8.10 lakh hectares of surplus land were distributed among 10.60 lakh families. The second period was when a new national policy on land ceiling was evolved in July 1972 and about 9.5 lakh hectares of surplus land were taken over of which 6.6 lakh hectares were distributed among 11 lakh families. More than 50% of the beneficiaries belonged to scheduled castes and scheduled tribes.¹

How impressive it sounds on paper, but how dismal the performance is in the field. It is the government's responsibility to see that the land allotted to the landless labourer is free from disputes, but more often than not, disputed land supposedly declared surplus is given with the sole purpose of achieving targets, with the result that the impoverished labourer is taken to court. He emerges mauled and shaken, much wiser from his experience — but without the promised land. Though he has won all the cases he can possibly win under the circumstances no one is willing to give him physical possession of the land. Neither the police nor the revenue officials see it as their duty to help this landless labourer become a respectable farmer and hopefully a responsible citizen. Once the labourer is in possession of the land, there is

¹ 1 lakh = 100,000.

a government scheme to help him develop it. But since such schemes are made by impractical people who have no idea of rural conditions and have never worked on land, it is not surprising that such schemes fall by the wayside. Each farmer can receive Rs. 200 from the government to develop his plot of 4-5 acres but he actually needs close to Rs. 1,000 minimum. In any case he does not receive the entire amount in cash or kind even if he has the stamina to go through the whole process of applying for it—which is another horrendous story all together.

It is the policy of the government to increase food production and assist small and subsistence farmers by way of subsidies, credit and easy term loans. But at the village level, the very people who are supposed to be carrying out the policies of the government are the worst exploiters. They have developed the ability to abuse the system in the name of the poor to an art. Subsidies and credit that should be the poor's by right are dispensed to them in the form of patronage by the rural rich who hold the purse strings through the village level government functionaries—the patwari, the gram sevak, the co-operative inspector, the policeman and the teacher. The interpretation of the government scheme, by the time it percolates to the village is distorted beyond recognition with the result that the poor only hear the version disseminated by the last and worst spokesman of the government at the village level. Because the government worker says so, the small farmer pays Rs. 5 for a subsidy form which should be distributed free: the subsistence farmer pays the co-operative inspector a share of the subsidy he is entitled to, because he knows if he does not do so he will be harassed to his knees when he will beg for forgiveness; if he wants to purchase a pump set he has to buy only that pump which the bank manager suggests or he will not get a loan. If it is a question of seeds or fertilisers unscrupulous petty businessmen have established a working relationship with co-operative societies and commercial banks and the poor farmer has no choice but to take what is given—or else. If he is not obliging to the assistant engineer who supplies the power to the electric pumps one day he will find his bill inflated or his connection cut off. These are every day hazards the poor farmer has to live with. He is dimly aware of the rights he has as a citizen but he is also aware that, in times of crisis, neither the

courts nor the police will protect him. He is, really and truly speaking, on his own. It is not the system that has made him self-reliant: he has deliberately cut himself off.

Which is why when we claim to be self-reliant in the production of fertilisers it is true because only 4% of India's big farmers use them anyway: the small and subsistence farmers make do with farm-yard manure, a practice that scientists are encouraging once again and U.N. agencies like the FAO have established separate Organic Recycling divisions to spread this idea. With the small plot of land the small farmer has, there is no better and more efficient way of ploughing it than with bullocks or of irrigating it than with a leather bucket and a pair of animals—whatever our agricultural scientists and economists might say. If 350 million farmers find it convenient and appropriate, if they are all satisfied with traditional practices, local seeds and farm-yard manure who are these 'experts' to tell us we must invest in tractors, high-yield varieties of seeds and modern agricultural implements? Where the policy of the government should be to think small, it comes out with the most outrageous and ambitious ideas that cannot possibly be translated into practice because we do not have the infrastructure to be able to implement it, let alone the qualified personnel at the district level to understand the strategy in the first place. The farmer wants to grow more food, he wants more yield per acre, he wants some advice full of commonsense and he is willing to give you a serious hearing if you bear in mind his limited financial resources. In other words instead of asking him to treat his seed for half a rupee thus increasing his yield by at least 30% by keeping the insects and bugs away from his crop, we are in fact asking him to change his seed entirely to a high-yield variety that needs more water than he has in his well, we are asking him to install an electric pump set that he does not need for the acreage he has, we are asking him to take a loan that he does not need since he is already in debt with the money-lender. For a human problem the government is offering an infrastructural solution more technical and complicated than this farmer's mind is capable of grasping. Anyone else in his place would do what he is doing now: rejecting the agricultural and economic policies of the government.

He knows such policies have been designed and planned by the rural rich for their own interest. In the name of the rural

poor, money is being pumped to 'revitalise' co-operatives in the rural areas — when no action has been taken to recover the loans already made, and the funds already embezzled. Government servants are equally to blame for this appalling state of impotence. In the name of the extension programmes and to help spread messages to farmers in the rural areas (which farmers, pray?) television sets are being installed in every gram panchayat headquarters, but the traditional and living communication media that the poor are used to and which could be used for educational and development purposes at less cost and with incredible effect are being allowed to die in the villages. It is the policy of the government to bring electricity to the villages and the rich are all for it, but has anyone stopped to think of the incalculable harm this is doing to the rural poor? With the installation of electric pumps the leather workers who used to make the traditional leather buckets for irrigation lose a steady market and become unemployed; with powerlooms producing cheaper cloth for cities, the village handloom worker loses a job; with plastics flooding the villages the potter who used to make earthen pots and glasses and the leather worker who used to make shoes are seriously threatened. Because of the advent of electricity to the villages, all these rural artesans are migrating to cities in search of jobs. Surely this is not what the government desires? Is it then surprising that the beneficial effects of the agricultural and economic policies on the rural poor have been at best marginal? These policies have made them dependent on the system, have made them servile and prisoners of the very system supposed to liberate them.

We must realise there are two different worlds living together but working apart with different aims in the rural areas. There is never one community in one revenue village but an assortment of many communities, each performing different functions. At one stage they used to depend on each other for their daily needs — the farmer, barber, carpenter, blacksmith, weaver, nambardar, potter, each depended on the other — but now *all* are dependent on this alien monster called the government. Whether the policies of the government have been responsible for this by accident or design is an open question, but if someone were to tell me that government policy is aimed at making people self-reliant, I would say he is chasing a crooked shadow.

It is this charity approach of the government to rural development that has destroyed any hope of the rural poor participating in the formulation, application or review of these policies. Indeed I very much doubt if the government is keen on the idea of the rural poor participating in any sense other than receiving grants and subsidies. The idea of mobilising financial resources to support schemes and programmes from the beneficiaries is immediately shot down by the bureaucrat and the politician on grounds that the villager is too poor and he cannot afford it. Thus we see this extraordinary situation where in the very village where there is a government dispensary, there are half a dozen private practitioners flourishing, including hakims and vaidis; where there are government schools, there are also private and 'public' schools where government servants would rather send their children; where government is supposed to do extension work there are many other agencies providing similar services and the poor farmers patronise these much more. Why? Surely there is a lesson to be learnt from these examples, but government being what it is, it is blind and deaf to what it *should* see and hear.

The first lesson is that the rural poor are in a position to pay for good services. If the services are poor, like the government schools and dispensaries, obviously no one will use them. If the supply of seeds is uncertain and if it does not come in time, if the commercial bank is indifferent to processing loans then naturally alternatives have to be found and the poor are prepared to use them. There are projects in India in the non-governmental sector that have shown that this is possible. But it is against the interests of the rural rich, many of them sitting in Parliament, to agree to this move. They want the free services for themselves.

The second lesson: that one indication of community participation is whether the communities are prepared to support valued services out of their own funds. It shows they have faith in the service being provided and are willing to support it. For example, in spite of the Planning Commission's recommendations that communities should be obliged to pay a nominal charge for the upkeep of drinking water programmes, no department in the central and state government responsible for providing drinking water has acceptance these recommendations. But those non-governmental agencies demanding and receiving a nominal charge from the scheduled caste communities have sensed a fierce feeling

of possession, for hand pumps for instance, and on many occasions, they have been prepared to fight to see no one else touch them. The communities tend to compare the poor performance of the hand pumps installed and repaired (sometimes after 6 months) by the government, with the ones supplied by the private agencies which they keep in working order. This infuriates the government's junior engineers to the point of becoming efficient just to show that their service is better!

This brings me to the third lesson: that for the participation of the rural poor in the formulation, application and review of government policies it is necessary to encourage the growth of a non-governmental sector for several reasons: (i) to provide a contrast, thus making the poor aware of what it is like to receive a professional service inexpensively, simply and effectively; (ii) to generate conflicting points of view thus making them think differently and leading, it is hoped, to changes in attitudes. It is only then that government policies will be subjected to the closest scrutiny and suggestions could be made to reach the planners. Regrettably bureaucrats and politicians have yet to accept the fact that there is nearly no difference between development and political work at the village level. Where programmes are dealing with attitudinal change and with people being made aware of their rights and how to take advantage of existing schemes, the other name for these efforts is politics. This process of changing people is only possible through programmes dealing with the development of human beings, not through projects oriented towards the development of infrastructures like those the government is best in doing — building roads, schools, hospitals, tanks, etc. Supposed to be the means to the ultimate end of bringing about the socio-economic development of rural families living below poverty line, these facilities, in fact, are used to keep them where they are and where they should belong. We have a very naive bunch of people at the helm of affairs if they think community assets built through the National Rural Employment Programme (NREP) are also accessible to the poor.

Much thought needs to be given to this issue of how the rural poor could participate in the review of government policies. One effective way would be to start an extensive campaign at the village level to expose the poor to the variety of schemes, projects and programmes earmarked for them. Since they only get to

hear of them from the village level government functionaries, if another agency in the same area took on the responsibility of disseminating information, it would serve a useful purpose. One reason why non-governmental agencies are viewed with much suspicion and hostility is because they divulge such information to all rural poor families thus minimising their power over the poor. Knowledge is power and the knowledge of such schemes and how to procure such funds is dispensed in the form of patronage. And here comes this non-governmental agency and makes such classified information accessible to all without selection, without favour and without considerations of any kind. It tends to upset the apple cart and generate fierce resentment among the vested interests. But to live with such hostility is a must and it is the only indication that the work you are doing is having some impact. People have started questioning, they have started talking in tea shops and bus stations and railway stations spreading the word and demanding services which were otherwise going to very few people. They have started comparing services, expecting explanations and pointing out flaws in the policies of the government by doing so. This is participation.

But it must be said in all fairness that no government would like to open this Pandora's box. You will notice there is more planning for the existence of government and less for the people themselves, who are supposed to receive assistance. Obviously this means that the government does not trust the people and does not have faith in their skills and wisdom and practical sense. Perhaps deliberately no move has been made by the government to understand the poor better and create a forum where their views could be heard. It appears there is a conscious attempt to keep away from the poor, keep them at a distance and work only through intermediaries who claim to know them and have a feeling for their problems — in this case, the rural rich, who sit in Parliament, whose sons go to public schools, who speak pip-pip British English and have never missed a meal in their lives. Is it strange that the poor remain poor? Should we be surprised to hear them say, we can do without the government, just leave us in peace?

The dilemma facing us is not how to reach the poor. It is how to reach ourselves.

AGRICULTURAL POLICIES : THEIR IMPACT ON THE RURAL POOR

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I. Legal Resources for the Rural Poor

Rural poverty in Asia (and indeed elsewhere in the third world) is not a product of happenstance. The roots of rural impoverishment are set deep into the ground of existing social, economic and political relationships. The continuing impoverishment of the rural peoples of Asia is firstly, the product of an intricately structured and ruthlessly maintained set of political, economic and social *power relationships* often deliberately entrenched in law. In some South Asian countries, these power relationships result from the growing transnationalization of agriculture. In other countries, domestic agribusiness proves to be as ruthless an exploiter as transnationals. But in any event, the problems of rural poverty are the problems of power (or lack thereof) and it seems important to stress that these power relationships are often established, entrenched and reproduced through recourse to law. Secondly, the continuing impoverishment of the rural people of Asia is the result of growing lawlessness of state agencies and officials (e.g., local bureaucrats, police, forest officials) entrusted with the administration of law and justice. Thirdly, rural impoverishment results from a patronage system that bureaucrats inevitably adopt when distributing essential resources (e.g., land, rural credit) under state development programmes. Fourthly, rural impoverishment may result from unintended effects of well-intentional programmes and laws such as the green revolution programme of adopting high-yielding varieties of seed in India and the Philippines. These policies were undoubtedly intended to help increase national food production to meet national consumption needs. But in the process, the small and marginal farmers ended up becoming further marginalized and impoverished. The problem of equitable allocation of the benefits and burdens resulting from development remains acute since the

benefits inevitably tend to accrue to the affluent while the burdens inevitably tend to get borne by the poor and the powerless least equipped to bear such burdens.

If indeed any serious attempt is to be made to change these unequal and inequitable power and dependency relationships, such attempts must involve the rural poor. After all, it is they who will ultimately bear the risks and face the retaliations resulting from such attempts. However, individually, the rural poor lack resources and strength to combat impoverishment. Hence, it is now being increasingly recognized that it is necessary to develop independent, self-reliant and participatory organizations of the rural poor. Only through such organizations can the poor develop the crucially needed *countervailing power* to effectively combat their impoverishment.

One of the major obstacles to the development of such organizations is the differential capacity of people in hierarchical societies to use law and legal resources to assist in their mobilization and organization, to defend against retaliation and suppression and to promote their respective interests.

Law has traditionally been a resource for the rich and the powerful. Numerous studies show how dominant groups have used law to further or safeguard their own interests. Such groups have been able to institutionalize transactions and relationships which produce impoverishment through law (as studies, for example, of migrant labour and rural indebtedness clearly show). Similarly, dominant groups have been able to maintain the poor in dependency relationships through abuse of legal process, for example, by harassing peasant leaders with false criminal complaints or with long, drawn-out civil litigation.

Ordinarily, the rural poor want to have as little as possible to do with law and their negative perceptions of law are reinforced usually by their contacts with law and the courts. However, the rural poor are increasingly beginning to realize that they can no longer afford the luxury of ignoring law. In addition to the pervasive use of law against them to perpetuate dependency and impoverishment there is a growing trend in rural areas of abuse of power and utter lawlessness on the part of those charged with administering the law, namely, the police and local judges. The legal resources' approach sketched in this section seeks to both

defend the poor against such abuse of law and also to increasingly exploit the potential for using law as a resource for the rural poor through, for example, efforts to seek implementation of existing rights under law or implementation of the bulk of social welfare legislation most developing countries have adopted, even if for no more than cosmetic or symbolic reasons. The legal resources' approach seeks also to provide advocacy for proper administration of law to counter privileged lawlessness by attempting to bring power holders under the law of the state.

Our legal resources' approach starts from two basic concepts. The first is the concept that law is a means of empowerment, and groups of the impoverished seeking to develop countervailing power through mobilization and organization can also use law as one of their means of empowerment. The second is the concept that law is a resource either as a source of rights and remedies, or as a means for "buying more time" and harassing the oppressor.

The existing body of international human rights' law can indeed be both a "resource" and a "means of empowerment" for the rural poor. But for this to happen lawyers must begin to assist, in new ways, in the struggle against rural impoverishment.

One set of lawyering roles relate to the process of mobilizing and organizing the rural poor.¹ There are tasks to be performed here by lawyers working both at grass-roots level (for example, in defending such groups against suppression) and at the international human rights' level (for example, in helping make ILO Convention 141 on the Right to Rural Organizations more effective).

A second set of lawyering roles relate to the administration and implementation of national programmes of rural development. As one of the working papers for this seminar so forcefully argues, it is essential that the poor participate in programmes designed

¹ Excellent case studies of attempts at mobilizing and organizing the rural poor are to be found in two volumes edited by Md. Anisur Rahman on *Grass-Roots Participation and Self-Reliance*, Volume I (Oxford and IBH Publishing Co.: 1982); Volume II (forthcoming). For treatment of some of the legal issues involved in such an approach, see James C. N. Paul and Clarence J. Dias, *Law and Legal Resources in the Mobilization of the Rural Poor for Self-Reliant Development* (ICLD: 1980) and *Legal Resources for Participatory Organizations of the Rural Poor* (forthcoming May, 1983).

supposedly for their amelioration.² Otherwise, the history of development administration abounds with well-intentioned programmes that were dismal failures. Lawyers can do a great deal more than they are presently doing to help bring about a shift from reliance on existing state mechanisms to reliance on the collective efforts of rural people to redress conditions of their impoverishment.³

A third set of lawyering roles relates to generating critical appraisal of existing or proposed policies, legislation and administrative actions which impinge on the human rights of the rural poor and exacerbate their impoverishment. It is with the role of "lawyer as critic" that this note is concerned.

II. Legal Critiques of Rural Development Policies and Programmes

In many developing countries there is the paradox of increasing rural impoverishment (in both relative and absolute terms) despite an increasing number of government programmes aimed (at least self-avowedly) at eradicating rural poverty. The range of state controls over land and over the production, reproduction or allocation of goods and services essential to the well-being of rural people is increasing. But, despite the official rhetoric of development, state agencies which control resources essential to the satisfaction of the basic needs of the rural poor, regularly misallocate or underallocate such resources to the rural poor. Not surprisingly, the basic conditions of life for most rural people are deteriorating sharply.

Most governments in Asia have enunciated policies and initiated programmes intended to influence resource allocation and income distribution in the rural sector. Land reform programmes, for

² Sanjit Roy, *Agricultural and Economic Policies: Their Effects on the Rural Population*, paper prepared for the ICJ Seminar on Rural Development and Human Rights in South Asia. See also *Law in Alternative Strategies of Rural Development (Third World Legal Studies: 1982)* and D. C. Korten and F. B. Alfonso, *Bureaucracy and the Poor: Closing the Gap* (1981) for studies of community participation in the administration of development.

³ For case studies of "alternative, people-managed development", see *Third World Legal Studies: 1982*, supra note 2.

example, abound all through Asia.⁴ Most studies of such rural development programmes have focused on social factors which produce underallocation or misallocation of resources and have emphasized such phenomena as the control or manipulation of state machinery by dominant classes and groups; or on organizational flaws and pathologies within bureaucracies which (allegedly) explain why they fail to do what they are officially established to do; or on relations between rural poor and state agencies and officials. Very few studies have paid much attention to the content and uses of the various kinds of laws which create and supposedly govern these state activities or to the relation of law to different modes of administration. It seems important that lawyers concerned with rural impoverishment undertake a critique of rural development policies and programmes and attempt to ascertain:

- whether and how law contributes to, or condones, practises, in the design or administration of development programmes which contribute to the political exclusion and economic impoverishment of people in rural areas; and
- whether and how law can be used to facilitate policies and administration geared to alternative development and to redressing conditions of impoverishment and exclusion.

By “law” here we mean more than “administrative law” as that term is traditionally understood. We refer to the whole body of law — legislation, subsidiary rules, agency manuals, bureaucratic customs, court decisions, etc. — which is used explicitly and implicitly to govern the design and administration of government programmes of rural development.

A framework for developing legal critiques of particular programmes is suggested below. The focus is on the way law is used (*and not used*) to prescribe general legal principles governing the:

- *design and enactment* of programmes; i.e., the processes of planning programmes and promulgating rules to enable them to go forward;

⁴ The International Centre for Law in Development collaborated with the (then) Asian Centre for Development Administration in undertaking a series of studies of the implementation of land reform programmes in Asia. The studies have been published in several volumes edited by M. Inayatullah, *Land Reform: Some Asian Experiences* (APDAC: 1980).

- characteristics of *institutions* to carry out programmes;
- selection and control of *actors* who exercise important powers allocated to institutions;
- articulation of *powers* delegated to institutions and actors;
- prescription of *processes* followed to exercise these powers; and
- establishment of *structures for review* of those decisions and for securing accountability of actors and institutions and reform of programmes.⁵

Practicing lawyers tend to focus on law which is of concern to their clients: usually on law relevant to conflicts which can be brought to courts (or adjudicatory tribunals). The rural poor are seldom clients of the more articulate members of the legal profession. Their grievances against the state are not widely understood and usually remain as inchoate conflicts; few people have attempted to convert them into legal claims. It is precisely for this reason that legal scholars and human rights' activists concerned about rural impoverishment must play a more active role in developing legal critiques of rural development policies and programmes.

III. Legal Critiques of Other Agricultural Policies

Rural development policies and programmes intended to have a redistributive effect, have a certain degree of visibility. However, the agricultural sector (and the rural poor) are very much affected by a host of other governmental policies which are less visible or whose impact on rural impoverishment is less direct. These policies determine exactly how the economic surplus generated by agriculture is distributed. They also determine relationships within different subsectors in agriculture as well as relationships between agriculture and other sectors of the national economy. Very often, these policies are biased against agriculture and hence exacerbate rural impoverishment.

Below, we attempt to identify some of the typical policies (and instruments through which they are implemented) prevalent in Asia,

⁵ For an elaboration of the framework, see James C. N. Paul and Clarence J. Dias, "State-Managed Development: A Legal Critique" in *Third World Legal Studies*: 1982, supra note 2, pp. 35-58.

as a first step towards critiquing them in terms of their contribution to rural impoverishment.⁶

Price Intervention Policies

Governments usually intervene with policies that affect :

- (a) price relationships among crops — thus attempting to influence the pattern of which crops are produced in what quantities;
- (b) price relationships between agricultural and non-agricultural products. These in fact tend to represent the “terms of trade” for those earning a livelihood in agriculture and basic biases in these terms of trade in favour of the urban consumer are usually a main factor in the perpetuation of impoverishment; and
- (c) price relationships between the agricultural produce and agricultural inputs.

A variety of policy instruments may be involved :

- price controls;
- export taxes;
- trade quotas;
- import tariffs, for example, on agrichemicals and farming machinery; and
- state monopolies over purchasing, marketing, processing or exporting a crop.

Often, these price intervention policies (and related instruments, especially buying systems) operate in a manner that results in :

- imposition of penalties on agricultural output prices;
- implicit taxation or negative protection of agriculture;
- growing regulation of the agricultural sector;
- creation of state or private monopsony or oligopsony buyers;

⁶ For an interesting assessment of Philippine agricultural policies, see Christina C. David, *The Impact of Economic Policies on Agricultural Incentives* (unpublished: 1982).

- lack of direct access to buyers for the poor who are therefore forced to sell through exploitative intermediaries who do have such access.

Because of their relatively low visibility, and the complexities involved in determining their indirect subsidy effects, price intervention policies have rarely been subjected to critical scrutiny in terms of their impacts on rural poverty.

Credit Policies

Low-interest rates in institutional credit is the most common form of direct subsidy to the farmer. But as several studies of rural credit programmes indicate, this main subsidy rarely reaches those most in need. Eligibility requirement, formalities, documents of title and a variety of other procedural rules have the effect of preventing the delivery of credit. Moreover, in some instances, even where credit does reach the farmer, its effectiveness tends to be limited because the credit may be tied to a package of inputs or prescribed for certain uses only.

Aside from provision of direct subsidized credit, governments also at times have tried, through other financial policies, to influence the flow of credit from the private banking sector to the rural areas. But these policies have not been effective for two reasons. First, policies to keep interest rates low for agriculture have tended to exacerbate the bias against the flow of funds to agriculture. Secondly, because of the adverse impacts of price intervention policies, agriculture may tend to be viewed as an unprofitable enterprise for potential investors.

Public Expenditure Policies

Governments usually meet criticism that they are neglecting the agricultural sector by pointing to a variety of public expenditure programmes :

- agricultural extension service programmes.
- agricultural research programmes.
- infrastructure development, e.g., irrigation.
- institutional infrastructure development to implement pricing or marketing policies.

Here again the need is for greater accountability in the expenditure of public funds and a closer monitoring on who benefits from such expenditure.

Taxation Policies

Most Asian governments have refrained from policies of direct taxation of agricultural income. But this rarely is of benefit to the rural poor and in some contexts can even lead to displacement of small farmers by powerful investors seeking a tax shelter through investment in agriculture.

The above random rostering of agricultural policies that have an adverse impact on the rural poor is intended to indicate the enormity of the task that lies ahead if concerned legal scholars are to play the "critic" role more effectively.

IV. Conflicting Government Policy Objectives

In part, some of the adverse impacts on the rural poor of government policies results from the fact that such policies may be seeking to serve a variety of objectives and balance a number of competing interests. Over time, several of the following objectives may be competing :

- achieving food self-sufficiency;
- stabilizing and keeping low food prices;
- stabilizing and keeping low meat prices by maintaining a low price for feed grains;
- increasing government revenue from agriculture;
- increasing foreign exchange earnings from export crops;
- increasing domestic processing of agricultural products;
- improving income distribution;
- increasing farm incomes;
- balancing economic growth in industrial and agricultural sectors; and
- responding to crisis situations whether they be food crises or energy crises.

At any event, most interest groups affected by such policies actively lobby and negotiate a balancing of interests in their favour.

The rural poor can rarely do so and are often the losers when interests are to be balanced.

Concerned lawyers and human rights' activists need to fill this void and take a more active role in monitoring policies which will contribute to rural impoverishment. Lawyers have been undertaking some of this monitoring function *vis-a-vis* the private sector and especially of agribusiness multinationals. But they have largely ignored the very large area of monitoring government policies which are so pervasive-policies which influence :

- **What is Grown** — household provisioning crops, domestic, market food and industrial crops, export crops, energy crops, fodder crops.
- **By Whom** — under what farming system.
- **How** — using what mix of seed and other agricultural technologies.⁷
- **Why** — to achieve self-sufficiency, earn foreign exchange, improve income-distribution.

The struggle against rural impoverishment and the struggle towards greater realization of the human rights of the rural poor will call upon lawyers to remedy this neglect.

There are challenging, and perhaps unorthodox roles to be played by lawyers in Asia working with groups of the rural poor : roles of critic; negotiator; lobbyist and advocate. The response to such challenges will indicate the level of commitment of lawyers in Asia to a truly *human* approach to human rights.

⁷The Agency for Community Education Services (ACES) is presently undertaking in collaboration with the International Rice Research Institute (IRRI) a project studying the impact of high-yielding varieties (HYV) of seed technology upon small rice farmers in the Philippines. For a similar critique of the Green Revolution in India, see B. H. Farmer, *Green Revolution* (Westview Press: 1977).

AGRICULTURAL POLICIES AND THEIR EFFECTS ON THE RURAL POPULATION*

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Improvement of agriculture is an integral part of the much wider problem of raising the level of rural life. The economic aspects of village life cannot be detached from the broader social aspect; and agricultural improvement is inextricably linked up with a whole set of social problems. All aspects of rural life are inter-related and no lasting results can be achieved if individual aspects of it are dealt with in isolation.

Agricultural policies should not be concerned only with the rich or progressive farmers. Efforts should be made to educate and motivate the millions of small farmers. In India, according to the 1976-77 agricultural census, 86% of the rural population had less than 2 hectares of land. Agricultural policies have to focus on the problems of the marginal farmers and landless labourers.

An effective attack on rural poverty and under-development can only be planned in the framework of an integrated programme of rural development based on detailed knowledge of local needs, resources and potentialities.

Credit and supplies and marketing have to be more efficiently and equitably organised through the co-operatives. Panchayats have to be revitalised to serve as effective democratic forums and instruments of community action. Functional groups of youth and women have also to be purposefully organised for accelerating the process of change in the economic and social life of the village.

* Summary of the paper.

AGRICULTURAL POLICIES AND THEIR IMPACT ON THE RURAL PEOPLE*

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In Nepal 95% of the population live in rural areas producing nearly 61% of the gross national product. Recognising this the government has undertaken many village development programmes in the last thirty years.

During the First Plan period several agricultural projects were implemented without any apparent agricultural policy or specific objectives.

The Second Plan contained an agricultural reorganisation programme. Under this programme, experimental programmes were launched in select districts. The Agricultural Reorganisation Act of 1963, was enacted and land reform was undertaken.

The Third Plan emphasised the agricultural development in the Terai region mainly to increase production of cereals and cash crops. Efforts were made to provide the farmers with necessary credit and agricultural inputs.

The Fourth Plan adopted the policy of concentrating on the development of certain select areas of the country. An integrated approach for supply of agricultural inputs was adopted.

The Fifth Plan introduced an integrated rural development programme with a view to conserving and using land scientifically. Efforts were made to develop the hill areas.

The Sixth Plan continued the emphasis on agricultural development in the hill areas to make these areas self-sufficient.

A recent evaluation of these programmes indicates that they have so far only created infrastructures and they have not yet contributed to the increase in agricultural production.

Nevertheless, Nepal has huge potential for agricultural development. Development of agriculture should be the basis for overall economic development.

* Summary of the paper.

A VIEW ON RURAL DEVELOPMENT IN BANGLADESH

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Rural development is a subject which was recently widely discussed in national and international forums. The educated elites of our urban friends have at last begun to speak the truth about the importance of the rural development in relation to the development of our country as a whole, where the majority of the people are struggling to survive on agriculture which is the mainstay of our economy. They have also realised that the continuation of their luxurious life in towns also depends on the speedy development of the rural area.

Bangladesh is not an exception. According to an *Observer's* report published in a national daily, 'SANGBAD', on 4 October 1982, in 82 days there were 450 seminars, symposiums and workshops on this subject in different towns where 1635 speakers spoke. Most interesting thing is to note that the subject was rural development, but according to the report there was not a single soul from the rural area. The question naturally arises — are we not deceiving ourselves?

Directives always come from the capital. Radio, television, newspapers are constantly urging rural development. Political parties added peasants wings with their names, in the hope that the balance of political forces may dominate agricultural votes. To stop the growth and cut down the size of the population a crude and artificial device is being used on innocent men and women of the rural area. Still the population increases by 28 per thousand per year.

In order to increase production fertilizers and pesticides are supplied to the peasants disregarding the after effect of it on the land. Still we require to import not less than one and half a million tons of food grains per year. Land reform is the 'Talk of the Town' today. We have tested that too. In 1972, just after liberation, important decisions were taken by the Government on agricultural land:

- (i) All arrears land revenue with interest were exempt.
- (ii) Owners of upto 25 bighas (one bigha = 33 decimal) of land were exempted from land revenue.
- (iii) An agricultural land ceiling of up to 100 bighas per family was introduced and excess land was to be distributed among the landless peasants.

Nobody could question the good intentions of the government but it failed to implement them fully because implementation mainly depended upon bureaucracy as there was a shortage of trained political workers and an absence of peasant's organisation.

In spite of these enactments the land tenure and condition of the peasantry remains as it was. After ten years the peasantry of Bangladesh is again deeply in debt — so much so that in many cases even if they sell their land they will not be able to redeem themselves. Government banks have set up rural branches in the rural area to help the cultivators, but in practice these are no help to them at all. These banks are investing their rural deposits in the urban area. Up to 31 December 1981 the deposits of rural branches of Agrani Bank were 115 crores, out of which only 33 crores were advanced to the cultivators (*Weekly Bichitra*, 17th Sept. 1982). The peasants must borrow because there are always intervals between cultivation, sowing and harvest. They therefore, live on a system of credit to meet the necessary expenses of cultivation and their family expenses until they can reap their harvest and market their product. The peasant is seldom affluent. He is the victim of natural calamity. The grower has no power to hold over, and he is compelled to bring his products within a short compass of time to the purchaser, the middleman. Multiplicity of middleman between grower and consumer is one of the causes of low prices. On the other hand, their inputs come to them after changing hands many times, increasing their cost. The peasantry, therefore, have to borrow and borrow from local money lenders with high rates of interest.

Bangladesh is a country having an area of about 55 thousand square miles. The total population is nearly 100 millions and its density is 1400 per sq. mile. Total land under cultivation is nearly 72 million acres. Agriculture contributes about 60% of GDP and 80% of import earning of the country. Bangladesh has no impor-

tant minerals or mineral oils. Even rocks are not available for the production of cement and other materials for buildings, highways, bridges and dams. What we have is our fertile soil and hard working men. Therefore, agriculture should naturally form the basis or foundation of the prosperity of Bangladesh.

Efforts have been made by the successive governments to develop infrastructures and create facilities for development of agriculture and industries. But these steps have created top heavy administration and inflation. There have been no material gains for the country, but the colossal sums of money spent have found their way into the pockets of a few adding to the number of millionaires. The condition of the rural people was not improved much. Now nearly one third of the rural population are landless, and they mostly remain under-employed and unemployed throughout the year. Not only the landless but rural people as a whole are eager to move to the towns because agriculture in Bangladesh does not pay. Bureaucrats are supposed look after them but they are in most cases more cruel than the natural calamities. A betelnut shopkeeper in the town is much better than the man behind the plough.

Some of us have a delusion of becoming an industrial power like England and Japan. Let us be practical. What can easily be said on a public platform or written on a white sheet of paper cannot be done so easily in practice. I think, it is fantastic and impractical to think that Bangladesh and similar countries which are so poor in natural resources and technology can attain an economic break-through by industrialisation. Lacking in capital and coming so late they cannot expect to capture world markets in selling industrial goods in the face of competition from the old industrialized countries. Only agro-based industries utilising agricultural raw materials such as jute, sugarcane, bamboo etc. should be further developed, either for export or import substitution. Other industries for production of fertilizers, pesticides, power tillers, power pumps and other agricultural equipment should be established to support agricultural development.

Industrial units should be distributed in the rural areas in such a manner that people could work there living in their village homes. This will help to avoid accommodation problem and the evils of localisation of industry like slums, air pollution, social unrest,

prostitution etc. This will also help to improve communications and local unemployment. The rural people will also come into contact with modern technology. Many renowned conventional economists may not agree with me but this is how, I believe, we can develop our country peacefully. The contrasting position between urban and rural will also slowly be abolished. Profit was and is one of the criteria and basis of the industry, but during the industrial revolution profit was the only criterion. Social service must now be added.

Many developing countries like ours yield to political pressures and give priority of their urban population to the detriment of the peasantry. This priority given to towns is a known fact. Many necessities they get subsidised for urban dwellers when the rural people have to pay the full amount.

Development of a country means the development of the whole country, not only towns. But what is happening really in our country? The faces of the towns are changing so rapidly that it would be difficult for the rural people to recognise them as their own. What they expect to see and enjoy after death in heaven they can see the urban people enjoying on this earth. The towns are growing uninterrupted. Triple cropped high fertile lands are being taken for urban expansion. The man behind the plough is being pushed back towards the marshy low lands. The question naturally arises when 92% people of this country are trying to survive by hard labour and cannot get a square meal a day, how are those people in the town constructing big palaces and enjoying a Euro-American luxurious life? The industrial units are all around the towns. The urban people are supposed to earn foreign exchange by export and supply the rural people their industrial goods. But they earn so little that their earnings cannot meet their requirements of foreign exchange and whatever is supplied to the rural area is so dear that it goes beyond their purchasing power. For example, an ordinary shari is equal to a maund of jute (about $2\frac{1}{2}$ maunds = 1 quintal).

We have changed our flags twice in 25 years but the condition of the majority of our people has not improved much.

Our rebel poet, Kazi Nazrul Islam, truly felt the pulse of the people when he wrote :

“Khudhatur shishu chai na swaraj,
Chai duto bhat ektu noon”

(The hungry child does not want freedom. She wants a little rice and salt.)

Lots of good commitments by the government and political parties in the past has brought to them frustration more than anything else. Mentally and physically shattered as they are, any well-intentioned programme will take longer to motivate and inspire them afresh. Mere enactments of laws will not help us. The key to the solution of our problem is in organisation of peasantry.

Well — Do we really and honestly want our country developed? If so then there is no other way out but we have to go back to the villages and taste the socked rice with green chillies and onions.

INTEGRATED RURAL DEVELOPMENT IN PAKISTAN

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Asia as a whole possesses rural based economies and countries of South Asia make no exception. Of Asia's 2.25 billion people, 85% live in rural areas and nearly all of them depend directly or indirectly on farming and allied occupations for their livelihood.

The second world war brought the end of the colonial era. However, most of the countries in the region are still based on the colonial superstructures of elitism, centralisation and paternalism. This has led to the trickle down policy with central control and co-ordination of economy as a top down process, industrialisation, and expansion of the modern sector as a means of rapid growth to catch up with the highly urbanised and industrialised West and to become rich in the shortest possible time. The consequences are widening disparities between the privileged few and the non-privileged.

The common feature of the countries of South Asia is all-pervasive poverty concentrated in rural areas. The majority of the rural population comprises small or marginal farmers, tenant farmers, artisans, farm labourers, fishermen, handicraftsmen, school dropouts, women, youth and many others who are either under-employed or unemployed. This impoverished group is confronted with a host of problems such as small uneconomic holdings which are invariably fragmented; low yield per acre; low *per capita* income; a large family to support, no saving for investment, inadequate credit facilities, low repayment capacity, poor storage and marketing facilities, ineffective co-operative or local institutions, poor communications, ill health, illiteracy, malnutrition, poor hygiene and sanitation. To add further to their miseries, they are exposed to the tyranny of petty officials and natural hazards such as floods, droughts, epidemics and other natural calamities which jointly make them economically poor, socially weak and politically most vulnerable to exploitation.

In whatever way we may like to define rural development, the ultimate objectives are higher productivity and more equitable social justice: one dealing with increase in material well-being of

the people and the other dealing with equitable distribution of welfare opportunities. The objectives of rural development, therefore, extend beyond any particular sector. They encompass diversification of the entire rural economy which includes improved rural infrastructure, rural industrialisation and provision of health, education and other amenities of life.

Rural development does not mean merely agricultural growth. On the contrary all aspects of rural life are inter-related and no lasting results can be achieved if individual aspects are dealt with in isolation. Therefore, rural development should combine the objectives of growth, employment and income redistribution through local institutions which would ensure that the benefits of modern technology reach the weakest section of the rural population — the target groups.

The lowest level where rural people can get together for any development activity is within the geographical limits of a village. However, it is not economical to provide in every-village all the services required. It is much more efficient to select a central village (focal point) which has the potential to develop into a small town (agro-ville) for the future economic, social and political development of the villages around it.

Typically it will have an administrative set up consisting of the functionaries of nation building departments, peoples' organisation, banks, markets, agro-industries, warehouses, health and education facilities. This growth centre will be well connected with villages of the surrounding area through a network of feeder roads. It is important that the growth centre be selected on the basis of locational analysis and planning and not on administrative and political considerations only.

Village planning on the one hand and growth centre planning for a group of villages on the other should give rise to area development based on human activities supported by an optimum distribution of services and supplies within a given area. This is the idea behind the concept of an integrated area plan.

Pakistan Integrated Rural Development Programme (IRDP) suggests a framework for economic and social decentralisation. Agriculture being the predominant sector of the country's economy, the setting up of institutions required for agricultural deve-

lopment are essentially the first step, and provide the foundation for integrated rural development. The organisational structure has to be linked with the Civil administration and local bodies system at all levels so as to ensure that agricultural development is closely linked with the overall efforts towards rural development, including other important sectors such as health, education and community development. Keeping in view these considerations, the concept of IRDP based on SHADAB Pilot project is :

“To select a production area comprising 50 to 60 villages with a view to improving the socio-economic status of the target group through an intensive rural development programme. The initial thrust shall be an increased agricultural production and productivity by intensification, diversification and commercialisation of agriculture based on a sound physical organisational and institutional infrastructure. This will require upgrading of skills through appropriate technology, provision of supervised credit, inputs, machinery pools, agro-industries, storage, marketing, health, education and other facilities as a package deal from a focal point called MARKAZ.”

Markaz is a national growth centre for a viable production area which has the potential to develop into an agrovillage (market oriented township) for providing the necessary supplies and services to the surrounding villages. It is here that the activities of various nation building departments, peoples organisations, private sector and other agencies operating in the rural area are integrated for identification of felt needs, planning and development. The village co-operatives are federated at the Markaz for carrying out economic activities.

The Integrated Rural Development Programme (IRDP) envisages institutional arrangements from the village, which is the primary unit, to Markaz which is the growth centre, to the district, which is the planning and development base.

The in depth study of rural development programmes, past and current, in the countries of South Asia bring out common **CRITERIA** for rural development :

- (1) A political commitment by the government to develop the rural sector and a strong will at the national level to translate this commitment into action. This is only

possible if rural development forms the hard core of the country's national development plan.

- (2) Maximum participation of the people at grass roots level through their organisations/institutions in planning, development, monitoring and evaluation of their development programmes according to their felt needs. It has been established that meeting the priority needs of people in the first instance is a stimulator to involve them in other development projects.
- (3) Mobilisation of dormant human and material resources with greater emphasis on people, including women and youth, based on the principle of self reliance. This includes diversification of agriculture, employment opportunities for the landless, upgrading of skills and location of agro-industries in rural areas.
- (4) Decentralisation of the decision-making process of planning and implementation. The closer the planning exercise is to a particular area or locality, the more realistic and specific it becomes in its content. A special virtue of the local approach is that it can take into account the totality of the local potentials for development, relate local needs to national policies, encourage popular participation and facilitate the establishment of priorities in programme planning, implementation and allocation of resources on selected projects.
- (5) An effective delivery system of supplies and services to reach the target group. It includes credit, inputs, marketing, transport, storage, processing, small business enterprises, appropriate technology, co-operatives, management training, legal services, health, education, etc.
- (6) Evolution of viable, self reliant and self supporting local *institutions with built in mechanism to protect the rights of the weaker section of rural society, i.e., the target groups.*

It will be seen that fulfilment of these criteria depends basically on two flows which have to be linked together to be effective. First, the rural people must be made aware of their possibilities and potentials for development and be organised for

achieving it, through identification and articulation of their felt needs. Second, it involves the co-ordinated provision of the essential infrastructure and delivery of government services and supplies to match the people's efforts in meeting their felt needs as expressed by their own organisations. The third operational component would be to mesh these two flows, one from the bottom up (village) through peoples channels and secondly, the flow from top down through government channels at a level at which these two could best interface so as to meet the peoples development needs. The level of such interaction should be at a point which preserves social cohesion of the community. At the same time, it should be at a level which is economically viable for purposes of management of the peoples economic activities and institutions and feasible for decentralised government support services.

COMMITTEE I — LAND TENURE AND LAND REFORM

LAND TENURE AND LAND REFORM IN SOUTH ASIA

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Land Tenure

Land tenure has been defined in various ways. In this paper, it will stand for the following aspects of the "network of relations among people who draw their livelihood from cultivation of the soil" (Thorner, 1956) :

1. The nature of land ownership and its distribution pattern.
2. Terms upon which land is held and worked :
 - (a) quantity and mode of payment of rents and revenues due to legal owners (money/kind/labour rents ; flexibility/rigidity in the timing and number of instalments for paying dues, etc.).
 - (b) extent and character of intermediaries between the owner and actual tiller of the land.
 - (c) nature of tenancy (i.e., security, permanency, etc.).
3. Extent of land consolidation/fragmentation.
4. Organisation of farming (co-operative/collective/subsistence family farming).
5. Position of the state regarding rights of ownership, share of the produce from land, etc., and their regulation.

The land tenure system in a country thus determines (a) the size of both ownership as well as cultivation units, (b) share of the produce from land among the various parties involved in land. These two factors, in turn, have serious implications for techniques and organisation of farming and hence land productivity. However, where there is little technological development, land (and the consequent control of labour) is the main source of wealth. As a result, the control over land largely determines the distribution of wealth in technologically backward agricultural areas. Since income cannot be realised from land

without labour, the pattern of distribution of property rights is necessarily accompanied by a system of inter-personal and inter-group relationships governing the application of labour to land. Land tenure relationships, therefore, tend to coincide with power relationships, where power is the "generalised capacity to mobilise the resources of society, including wealth and other ingredients such as loyalties, political responsibility, etc., to attain particular goals". (Parsons and Smelser, 1956).

Thus, the efficacy of a land tenure system may be judged by the following criteria :

- (a) whether the existing land tenure facilitates production,
- (b) whether it rewards those who are actually associated with production,
- (c) whether it allows for an equitable distribution of power,
- (d) whether it ensures sufficient finances to the state (assuming that the country in question is largely agrarian and at a low level of development and does not depend on foreign aid) for undertaking development programmes in favour of the majority people in the country.

Content of Land Reform

Any change brought about in the existing land tenure system may be loosely considered as land reform ; however, for it to be meaningful, it must stand up to the criteria set out above. This point needs to be stressed because now-a-days there is a tendency to pass all kinds of programmes and activities as land reforms. Some of these are mentioned below, in order to pin-point their inadequacies :

- "Land reform" designed to postpone genuine land reform in areas where the objective conditions (e.g., adverse land-man relations) call for serious changes. One typical example is the land reclamation and resettlement projects in certain South and South-East Asian countries.
- Land reform as a "social welfare" measure to reduce poverty, malnutrition, etc., and guided by purely humanitarian considerations. However, such land reform is not intended to bring about structural changes for eradicating

the material basis for inequality and injustice in the society. Similar "mild" land reforms for Third World countries are also advocated now-a-days by the World Bank and the Western aid donors, motivated by very different considerations, namely that the existing client state structures would collapse in these countries, paving the way for "communism", unless the poor received a dose of "relief" through land reform, and that without some land reform, food production would stagnate and consequently, even PL 480 or other aid would not be able to tide over the worldwide food crisis ensuing from such a situation.

- Land reform as a strategy for simply increasing production. The argument for land distribution is generally built around the empirical evidence that small farms are more efficient and productive than big farms. Many professional economists take such a stand. So do some of the Third World industrialists who look at land reform as one way of higher agricultural production, and consequently reducing prices of food and other essential agricultural commodities so as to maximise profit and expand their investments. They do not certainly see land reform as a way of transforming the existing inequitable economic, political and social relations.

Political and Economic Implications of Land Reforms

If the pre-reformed agrarian structure is characterised by skew land ownership, land redistribution is likely to provide not only livelihood and employment but also the material basis for greater co-operation among the majority of the cultivators since it satiates their hunger for land, provides them with tangible economic means to co-operate around, lessens inequality and generates greater fellow feeling among them. In the long run, this unity may lead to collective farming, farm mechanisation and economies of scale unattainable in the pre-reformed structure. In the short run, this co-operation may be utilised, on a voluntary basis, for all-round infrastructure development through basically labour intensive work :

- mutual help and labour exchange in agricultural work, especially during peak seasons;

- construction of feeder roads, irrigation canals, water conservancy and flood control works ;
- re-excavation of derelict tanks, moribund rivers and canals for fisheries, irrigation and navigation ;
- general cleanliness and sanitation work.

This strategy is of utmost importance for countries which have been or are being drained of their capital through colonial/neo-colonial exploitation and as such lack capital, but nonetheless desire to achieve greater productivity, and at a later stage also to acquire necessary capital through 'self-reliance' (i.e., minimum dependency on foreign aid and private foreign investment, and foreign trade only on equitable terms).

Reduction in rents and revenues of the direct producers is likely to give them the incentive to produce more. For example, in certain share cropping systems, 50% of the gross produce belongs to the landlord. There is no cost sharing ; the share cropper is less interested than an owner farmer in increasing yield per acre by applying modern inputs because, although the increased benefit he produces by more intensive use of inputs has to be shared with the landowner, he has to bear alone the full increased cost. If he does try to maximise yield per acre, given the pressures of his consumption needs and the fear of eviction, it is generally through over-exhaustion of his own labour. Similarly, when payment of rent is in money and not in kind and there is greater flexibility in the timing and number of instalments for payment of rents and revenues, the scope for rack renting and high-handedness on the part of the rent collectors is reduced, and to that extent, provides the cultivator with incentive and surplus for greater agricultural production and investment.

Abolition of intermediary rent-receiving interests between the state and the direct producer ties ownership with the risk and responsibility of cultivation. It also replaces private with public appropriation of the agricultural surplus, and hence increases the scope for its social utilisation.

Conferment of permanent tenancy rights to direct producers provides them with a sense of security, which is conducive to increasing agricultural production and investment on a long-term basis.

Consolidation of holdings and formation of agricultural co-operatives promote economies of scale in using better productive forces such as harvesters, combines, tractors, power pumps and irrigation water, mechanical spraying of insecticides, etc. To cite one specific example, in Bangladesh, the average area irrigated per pump is about 50 acres of 25 acres/cusec. This low acreage per cusec results from the prevailing pattern of small fragmented holdings. Without this constraint, it would have been possible to irrigate as much as 100 acres with a 2 cusec pump. Consolidation also means land reclamation through abolition of boundary lines, and this may be of no mean significance to a country with an extremely unfavourable land/man ratio. Moreover, scattered plots cause inefficiency, inconvenience and consequently higher costs of cultivation.

Land redistribution and rent reduction are likely to result in more productive investment if the big landowners associated with the pre-reformed structure are given to wasteful consumption and investment in socially counter-productive activities like speculative trade, usurious money lending, land purchases, etc.

It is possible that while land redistribution and tenancy reforms may result in higher production immediately following the reform, there may be a propensity to consume more, and consequently, the agricultural surplus, so essential for industrialisation of an LDC, may fall. However, this may not be undesirable in the long term. Firstly, in societies where the majority of the direct producers suffer from poor health and acute malnutrition, such consumption would invariably lead to a greater labour productivity, which, in turn, implies greater production and agricultural surplus in the next phase. Secondly, a sizeable portion of the agricultural surplus generated in the pre-reformed structure may be of distress origin (i.e., emerging from the compulsions of poor and middle peasants to pay revenue and rent, service outstanding debts and purchase basic necessities of life like salt, kerosene, cloth, etc.) (Narain, 1961). Usually this is sold at less than the normal price and a considerable portion of it is bought back at a higher price later so that, in effect, the distress surplus does not alter the size of net agricultural surplus, i.e., the surplus that is finally available to the urban sector. Moreover, distress surplus benefits the landlord, the money-lender and

the trader but not the 'industrialiser'. Finally, the nature of distress surplus is such that it may create 'perverse' response to price movements, which is detrimental to the availability of a large agricultural surplus for industrialisation. Therefore, if through land distribution and tenancy reforms, the distress component of the agricultural surplus is removed, it is not likely to affect adversely the pace of industrialisation (Byres, 1974).

Land is the principal means of production in an LDC. It is also the hallmark of social prestige. Land distribution and tenancy reforms may, therefore, be instrumental in altering the existing political power equations and ideological hegemony in the society and ultimately affect the class character of the state. This means that the transformed state will generate a new set of policies and institutions, and provided the post-reform dominant classes constitute the majority in the society and are more productive than those displaced, which they are bound to be, these policies and institutions are likely to accelerate production and, at the same time, ensure a more equitable distribution of the social product.

Process of Land Reform

The process of land reform includes (a) initial public policy statements by the government or the ruling political party before and after coming to power; (b) more concrete formulations in the shape of Acts of Parliament, Ordinances, Regulations, etc., and the rules framed thereunder; and (c) the pace timing and rigour of implementation, including the specifics of the implementing machinery evolved for the purpose.

In this context, a clear distinction needs to be drawn between the ideology of land reform, on the one hand, and the programme of land reform on the other (Joshi, 1970). Thus, the ideology of land reform may be generally anti-landlord, representing an articulation of general peasant interest, while the programme of land reform may serve primarily the interests of superior tenants and even landlords to the exclusion of the interests of the rural poor. To quote Myrdal, "In any case, it is the worst of both the worlds to have a radical ideology of land to the tiller and a largely ineffective legislation conforming to that ideology, which in spite of its lack of implementation nevertheless creates

uncertainty about what the future holds for those who now own the land" (Myrdal, 1966). Myrdal omits to mention, however, that such a policy spelt as much, if not more, insecurity and uncertainty for the small tenants as for the landlords.

In an understanding this dilution and divergence, a line has again to be drawn between apparent and real explanations. While the apparent ones concentrate on issues like elite behaviour ('conciliatory-co-operative' and 'dominant co-operative', to cite one typology) (Tai, 1968), formal organisations of implementation and legislation, technicalities of translating a policy statement into a cogent legal document, clarity of legislative texts and rules framed thereunder, disagreement between legal techniques employed and the objectives of agrarian reform programmes, unexpected side effects of implementation, etc., the real explanation considers these in the context of the class nature of the state undertaking land reforms and the level of consciousness and mobilisation of the intended beneficiaries: the 'state' is seen as a much more fundamental entity than a 'government' and representing, in the last analysis, a structure, specific to and in the service of the economically dominant classes for perpetuating their economic and political hegemony over the rest of the society. In a single class state matters are easy to predict, but in a state where two or three dominant classes are represented it is the final balance of political power, arising out of the contentions, competitions and collusions among these classes, which influences the extent of reforms.

Even at the risk of over-simplification, three levels of consciousness may be identified in a peasantry. At the lowest level, it finds expression through "socially deviant" behaviour, spontaneous, unorganised rejection of an exploitative situation. 'Social banditry' (Hobswam, 1972), as expressed through the 'Sanyasi' and 'Fakir' movements in Bengal in the late 18th century perhaps offer classic examples in this regard (Gough, 1976). At the intermediate level, consciousness flowers into militant collective actions for a better deal in the immediate context of the peasant masses, such as rent reductions, refusal to pay illegal exactions, etc. Even though collective in form, it is still enmeshed in spontaneity, critically dependent on a charismatic leader and often clothed in elements of the dominant religious ideology.

Finally, at its highest stage, this consciousness assumes a definite political character under a vanguard party, with a definite ideology which seeks allies among other exploited sections in the society (such as industrial workers and the urban petty bourgeoisie) in a common fight against the exploiting classes including upper strata of the peasantry, and aims ultimately (despite the necessary intervening stages) at capturing state power and collective ownership and control of the social means of production. This is a situation where peasants are aware of their historical mission of liberating both themselves and the society at large; in other words, they are transformed from a "class-in-itself" to a "class-for-itself" position. However, even at this level of consciousness, it is quite conceivable to develop peasant struggles around improvement in immediate economic conditions, but its critical distinction is that now it is essentially a tactic, a means to an end, rather than an end in itself.

Thus, the resultant of forces generated by the configuration of the state and the level of peasant consciousness and mobilisation ultimately determine the content of land reforms and the extent to which these are implemented.

Progress of Land Reform in South Asia

India: Land reform policies in India since the 1950s have been concerned with action on three fronts:

- abolition of intermediary tenures like Zamindari, Jagirdaries and Inams, which covered 40% of the area of the country,
- providing security of tenures to tenants and regulation of rents, and
- imposition of a ceiling on land holding and uneconomic land holders.

The first provision has been successfully implemented. As a result, about 20 million cultivators were brought into direct relation with the state, relieved of various feudal dues and were liberated from anachronistic and repressive revenue administration. However, many Zamindars and Jagirdars resumed possession of land in the name of self-cultivation, and evicted the tenants.

Policies for tenancy reform have been formulated on the basis of guidelines established in various Five-Year Plans. These guidelines are :

- rent should not exceed 1/5 to 1/4 of gross produce ;
- tenants should be accorded permanent rights in the land they cultivate, subject to a limited right of resumption to be granted to land owners; and
- in respect of non-resumable land, the landlord-tenant relationship should be terminated by conferring ownership rights on tenants.

These provisions have remained largely unimplemented. As pointed out above, owing to resumption of land in the name of "personal cultivation", there was large-scale eviction of tenants. Given the threat of eviction, the question of ensuring fair rents, as prescribed in law, did not arise either.

Similarly, provisions for ceiling and distribution of excess land among the poor proved to be a myth in view of legal loopholes, exemptions and poor implementation (Mathur, 1980).

Bangladesh: In Bangladesh, there have so far been two pieces of major land reform legislation, in 1950 and in 1972. These related to ceiling, abolition of intermediary rent receiving interests, consolidation of holdings, distribution of excess land among the land poor, etc. Significantly, there has been no formal attempt to regulate tenancy in terms of fair rents and security of tenure, and to date the share cropper is equated with the wage labourer. The measures taken so far have not only been grossly inadequate in comparison with the objective requirements, but have also largely remained unimplemented. The only success, as in India, has been in the case of abolition of intermediary rent receiving interests (Siddiqui, 1980).

Sri Lanka: There were two major land reform laws, in 1958 and in 1972. The first one was concerned with security of tenure, regulation of rents and restriction of the interest charged by landlords for loans given out to tenants. (At this time, there was no attempt to impose ceilings and carry out land redistribution; also, unlike other South Asian countries, there was no problem of intermediary rent receiving interests in Sri Lanka.) In order

to implement these reforms, two institutions were set up, namely the Cultivation Committee at the village level and Commissioner of Agrarian Services at the central level. However, the 1958 reform soon came to be conveniently ignored. The 1972 reform, started as a programme of land to the tiller, actually turned out to be merely an expropriation of a section of the socio-politico-economic elite for distribution, of patronage and other benefits by the new elite that came to occupy the state machinery. The real tiller waited in vain (Wanasinghe, 1980).

Pakistan : In Pakistan, major land reform legislation was effected in 1950, 1959, 1972 and in 1977. The 1950 reform was concerned with prevention of tenant ejection by landlords. The 1959 reform was aimed at abolition of jagirs, fixing ceilings, redistribution of land, etc. In the 1972 and 1977 reforms, ceilings were further lowered. The 1972 reform also provided for a better deal for the tenants. The provisions concerning tenancy regulation adopted in Pakistan at different times have in practice remained unenforced, and the pace of implementation of the ceiling on land ownership has been rather slow. In the matter of abolition of intermediary rent receiving interests also, Pakistan lagged behind India and Bangladesh (Inayatullah, 1980).

Thus, the progress of land reform throughout South Asia seems to be, on the whole, rather disappointing, in terms of both the content of land reform and what was ultimately implemented on the ground. There were, of course, considerable differences among these countries in both these aspects, but these were perhaps quantitative rather than qualitative.

As indicated earlier, the gaps between what should have been legislated (from objective considerations), what was actually legislated (including amendments from time to time) and what was ultimately implemented can be explained adequately in terms of (a) the socio-economic background and compulsions of the respective ruling classes, and (b) the nature of the peasant movement obtaining in these countries. The second factor is obviously more important because in it lies the possibility and direction of change, if any. Unfortunately, over the last thirty-five years, the peasant movement in South Asia has been either operating at an extremely low level or has taken the form of sudden and intermittent outbursts, followed by splits, dissipation of energy,

and relapse into a resigned state of affairs. It is only in few pockets that an even tempo of uncompromising and militant struggle could be maintained in the peasant movement, over a considerable period of time. As a result, the ruling classes in these countries generally got away with conceding very little in practice to the peasantry. Genuine land reform is, in the last analysis, a question of peasant mobilisation in order to challenge the existing power and property relations in the society.

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COMMITTEE II — SOCIO-ECONOMIC STRUCTURES AT VILLAGE LEVELS

SOCIO-ECONOMIC STRUCTURE OF A SRI LANKAN VILLAGE

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In Sri Lanka even today the majority of the people live in villages. Of the villages, the agricultural village is predominant since the majority of the people earn their living by cultivating rice. In the past, rice was cultivated by the water received by seasonal rains and such water was stored in artificial reservoirs known as tanks. The medieval period shows the construction of a large number of such tanks some of which are restored now and others are still in ruins.

The economic and the social conditions of the villages thus depended on water (the tank or the river) and land, which was the chief sustenance of their vocation in life. In the past it was the king who was the main owner of land, which was given on lease to the people who cultivated it collectively. This system no longer exists; the collective or co-operative life, which was the basis of all actions including the practice of agriculture, is no longer observed now. But still the vestiges of such practices are sometimes seen, having become part and parcel of the people's culture.

When the Sarvodaya Shramadana Movement initiated its activities in backward or socially and economically depressed villages in 1958, gradually the volunteers of the Movement, which had self-help as its main philosophy, came across vestiges of such agricultural practices. The collective ownership of land and the co-operative regulations that controlled the distribution of water were two interesting features that the Sarvodaya Movement saw and borrowed from the people. Land was cultivated by all with co-operative effort and the food went to feed everyone. The basic need of every villager as far as food was concerned was thus adequately met.

The co-operative effort was made possible by the spirit of sharing the labour. From the time that the land was prepared for agriculture all the people, men, women and children, shared in the work. Till the harvest was gathered this system of sharing the labour was the rule. In the case of water the regulations of custom and tradition which were based on cultural mores and folkways enabled a systematic sharing of water for everyone's need.

The sharing principle thus helped to meet the basic needs and also create a surplus. It was a theory of merit, not of capital arising from surplus labour. That is, each one was made to think that giving his labour for the welfare of all was meritorious. Merit meant the force that is necessary to make life happy now and hereafter. It was the belief in merit that made people donate their surplus labour for the good of all. The large tanks in which the water was stored, the great religious edifices and cultural masterpieces were all created because of this theory of merit. The surplus labour was not utilised to create capital for one individual ; it was devoted to create conditions of common good that were beneficial to everyone living in the society.

The other basic needs of the village too were met by the spirit of sharing. Houses were constructed by co-operative effort. The village physician never charged money from others for attending to their needs when they were ill. In short, although the physician possessed the knowledge and skill necessary to heal them, he also was a farmer like others. But he attended to others when they were ill and considered his deeds as part of his own accumulation of merit. The people of course rewarded him in various ways ; but it was not expected of them. The physician's services were free. This again explains another aspect of the theory of merit.

Religion was a dominant force in the village. Buddhism was introduced to the island in the 3rd century B.C., and thereafter it became the major religion of the island. The village monk in the temple with its milk-white edifice known as the *dagoba*, together with the tank, became symbols of the village. The temple with the *dagoba* became symbolic of spiritual prosperity and the tank or the reservoir of water the symbol of economic prosperity.

The village Buddhist monk became thus an essential feature in village economic and social life. He was not only a mentor to the people in religious activities but also an important person in other activities of village life.

The economic life which depended on the cultivation of rice was not complete without the monk's role. It was he who fixed the time for harvest, sometimes by selecting an auspicious moment. He had the seed-paddy in the temple and this was distributed to the people. All rituals and ceremonies associated with agriculture had the Buddhist monk at the centre. The distribution of water was regulated by religious custom. At certain villages, the Buddhist monk also possessed the knowledge and art of the use of healing which he gave the people freely. When there was either a personal or community problem among the people, it was the monk who helped them to solve it. Even in the case of social justice, it was the monk's role that ensured the maintenance and practice of social justice to a certain extent in the village.

Social control was exerted by religion and culture. Buddhists are expected to maintain the minimum five principles in life. They should have respect for all sentient beings, abstain from stealing, not indulge in sensual pleasures that are socially not approved, abstain from telling lies and finally refrain from drinks that result in alcoholic stupor. These five principles ensured the establishment of a basic social order. The Buddhist legends and myths, art, poetry and other stories illustrated what would happen if one did not follow these minimum basic principles. Every one thus strived to follow them because of the evil consequences depicted and believed in by the people if these principles were violated.

Although Buddhism emphasised equality in the medieval feudal society and continues to do so even now, equality has to a certain extent been invalidated by the presence of social stratification and divisions such as caste and class. Buddhism never believed in caste; the Buddha actually openly repudiated the caste system. Yet, in the country caste became accepted, although not to the rigid extent it existed in the Indian mainland. Buddhism with its emphasis on the equality of man exerted its influence in controlling the caste system.

Class was an economic factor. In feudal times, the feudal lord was the man of the highest class. Today the landowners and

those people who have capital belong to the superior class. The traditional landowners by virtue of their extensive ownership of land were in possession of too great a concentration of economic power. Today, in addition to them there is a new class, the merchants and tradesman who have acquired wealth and by virtue of such wealth claim to be a class by themselves. More recently, the educated too have come to enter the precincts of the highest class, and thus the class system as it exists today is not exactly what existed in the past.

Class and caste did have a very close relationship with each other in the past. In the village those who had owned the majority of land were people of highest castes. They were also the most privileged class then in the villages. The highest caste, owning such modes of production as land and capital, was thus the highest class. Even now in some villages today the highest class comprises a group of such land-owning high-caste people.

Buddhism with its emphasis on social equality taught people that human beings are to be differentiated not according to their birth, but according to the nature of their actions. In order to establish a socio-economic order according to Buddhism, four basic principles were laid down. They are sharing (*Dana*), pleasant speech, collective or productive work and equality. These were the social forces that to a great extent moulded the culture of the people. It is their presence in society that mitigated whatever baneful influences caste or class exerted in village society.

Evil was thought of as something unproductive, something which creates *disunity, dissension among human groups*. Good and evil were thus divided in a very simple basic rule. All that contributed to the co-operative life was considered good. The opposite which disturbs group life, creates dissension etc. was evil or bad. The evil-doer needs correction; it could be done not by condemning the 'doer' but the 'deed'. What is necessary is to wean the 'doer' away from such evil 'deeds'. For this, total education was considered necessary.

Education in the village was not confined to learning the art of reading and writing. In the past only a very few were initiated into these two arts. The village monk knew them and also some others, predominantly from the higher classes. But for the people, education meant 'accumulated experiences'. It could be got by

'having listened to a lot' (*Bahussruta*). The gathering of experience meant working in certain situations, particularly working in groups. The essence of such an educational process was to teach on the basis of group or co-operative life. Although that was the ideal, it cannot be said that this ideal was realised everywhere. But what is important is that an attempt was made to achieve it, and it is this concept of total education, modified and re-interpreted, that the Sarvodaya Movement is furthering today.

In the villages the social life revolves around certain values and norms. Of such values the respect paid to elders is central to every form of socio-cultural activity. It was considered that children, women, aged and infants were those who should be protected. The feeble, the weak and the oppressed should be supported, and the attempt made to elevate such economically weak and feeble sections by making them powerful is today known as the Antyodaya Programme.

The position of women is often discussed as that of subservience to the male. In the villages this was not so. The wife or the mother was considered as the 'queen of the home'. She was highly respected. In an agricultural society she had a very important role to perform. She was not only in charge of the home but also in charge of certain activities in the field. Women folk thus had as definite a role to play in the agricultural life as the men folk.

It is untrue to say that village women folk were treated as slaves by the men. The people had a great respect for motherhood and this was reflected in their economic, social or other activities. In the decision-making process at home, the mother had a vital role to play. She was more responsible for the decisions made concerning children, and in a significant number of families even today her role as a decision-maker is more important than that of the father.

In the past, successive attempts made by the Portuguese, the Dutch and finally the British to propagate their religion and culture did have results affecting village life. But the influences of the west are more observable in urban areas than in the villages. The processes of urbanisation and industrialisation are now at work. But with all that, the majority of the villages still preserve a distinctive character of their own.

The Sarvodaya Movement, attempting to harness all the potential good in man to make a better man and a better society where all the basic needs of all men and women are satisfied, is intent on re-building this village life. The philosophy and strategy of Sarvodaya was to a great extent derived from working in these villages. Sarvodaya has attempted to gather what is good and useful from the villages. The innumerable economic and social problems of the decadent village have been seen by Sarvodaya.

What is the exact nature of the decadence of the village? Why is it so? What are the historical economic and social forces which contributed to this decadence? Is there a hope of deliverance? What is it? How could we realise that hope? What is the strategy that could be adopted here? Finally, what is the nature of the society envisaged by Sarvodaya?

Sarvodaya observes that the village is decadent today due to the fact that man and community have not reawakened themselves. The process of reawakening in the individual and in the community would teach the community how to utilise the potential resources, both human and material for its own advantage. This could be done by a total development educational process. Then the basic needs of every one are met. The principles of sharing, pleasant speech, productive action and equality are thus emphasised. In the new social order of the village known as *Gramodaya* or the reawakened village, man matters most. The entire struggle for Sarvodaya is to create this village society where every person's basic needs are met, and everyone is content and happy in the service of others.

COMMITTEE II — ORGANISATIONS OF FARMERS

ORGANISATION OF HUNGRY PRODUCERS

Datta Savale

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The Anomalies of Indian Economy

Indian economy is marked by its dual character: on the one hand it benefits the ruling classes and on the other it keeps the majority of the working masses hungry and degraded. The Indian social structure is a conglomeration of different stages of historical development. From the primitive mode of life to the modern bourgeois mode, all the stages are existing simultaneously. The corresponding different modes of economics are also co-existing. It is essential to elaborate on this in order to understand their complex inter-relationship.

The most primitive example is the natural mode of economy of the tribals, mostly dependent on the dual aspects of nature, the land and the forest. From the shifting cultivation to the settled peasant agriculture, we find all the stages in different tribal groups. The tribal population used to survive — and is still surviving — on mainly that which nature provides. But rapid deforestation, and the peasants' gradual alienation from the land, have been eroding their means of survival. So they have no other choice but to come out of their forest dwellings to search for work and they thus surrender themselves to the vagaries of the labour market. Recently, this process has developed into a large-scale migration of the tribal masses. The seasonal migration of the tribals is not new, but its nature was previously quite different; the initiative used to come from themselves and they used to migrate to familiar and adjoining areas. Nowadays, the nature of migration has changed considerably and qualitatively. It has not remained local as before and, without a middle-man or a contractor, peasants today find it very difficult to seek jobs. Most tribals, as well as the scheduled caste landless labourers, have become easy prey to this new system.

Peasantry is another dominant mode which prevails over a very large area of the country. It is marked by its age-old stagnation and chronic under-consumption. Peasants mostly produce for survival and their lands are generally used for producing only one crop. Agricultural production occupies them for barely six months of the year. In most parts of the country, wages are still paid in kind, by way of cooked food or foodgrains. As D. D. Kosambi described it, "This economy has clearly very low commodity production per inhabitant. Whatever a man produces for himself or his family. . . . is then consumed within the small group or taken away without payment by (the) landlord". The peasant lives from season to season. Good rain and good crops are of utmost importance for his survival. For centuries, the peasant class has been burdened with the large, unproductive, elite class, with landlords, traders, money-lenders, priests, and village bureaucracy. Colonisation added to the already heavy burden with its plundering armies. Famine became a regular phenomenon.

With the advent of British rule, after they started building up the capitalist industries in their own country, they started tightening the bellies of these peasant masses further. A money economy was introduced and it had its negative effects on the survival economy of the peasant. Cash crops were introduced and major cash crops were produced by peasants, further reducing the area for the production of food grains and rendering their survival more difficult. The traders, landlords and money-lenders acted as agents, facilitators of the foreign market. Thus, the class of the hungry producers had been created. This trend continued after independence. Crops like oil-seeds, cotton, jute, tobacco, turmeric, etc., are mostly produced by the peasant for the market, but benefits are not received by him. The peasant agriculture has a very limited capacity to absorb labour; however, it has been burdened more and more by surplus labour. This has created a large army of unemployed rural labourers. This situation helps the present trend of using this surplus labour force for the building up of capitalism. Famine, droughts and floods have become regular phenomena. Famine is not only a natural calamity: it is also the result of this social structure. After independence, famine changed its nature. Now famine is more institutionalized; it has been used systematically to accumulate more from these hungry

classes, and to reduce them to the stage of slavery. Famine has not been liquidated, it has been converted and acquired a new name: "the poverty line".

Additionally, there is the present mode of capitalist development. This mode is marked by its exclusive nature. It can be credited with certain achievements, but, initially, due to the weakness of the capitalist classes, the state had played an important role in starting this process. In the first two five-year plans, the state established the basic infrastructure and installed basic industries such as steel, electricity, fertilizer production, irrigation, heavy engineering industries, etc. The basic raw material is produced by the state, sometimes incurring losses, and then provided to the private sector industries.

The state, as an agency of welfare, has also helped the capitalist class by being the biggest purchaser of their produce. The state purchases, for example, oil engines from the industry and distributes them to the small farmers. It purchases wheat from the farmer and spends it, as a welfare activity, on the Food For Work programme.

Benefits of the industrial capitalist development are enjoyed by a tiny minority of the society. The national market is oriented towards their demands. The large majority of the population is left out of the purview of the benefits of industrial development, and this has created ambivalence and stagnation in production. This crisis in the economy cannot be averted only by promoting exports. M. N. Roy has warned us, ". . . when countries are industrialised without any reference to the needs and purchasing capacity of the people, a way out is found in subsidizing export trade . . . India cannot succeed in this plan without heavy government subsidies. Government can produce finance for subsidies only by taxing people, which means lowering their standard of living even more." The self-exclusive character of the present development restricts the growth of the local market and consequently the economic growth itself. For the other section of society which is left out, this process only enhances their hunger and insecurity. It means the present development system is caught in a fix; if it wants to accumulate enough to continue this process by extracting labour by way of the primitive modes of exploitation, it will restrict markets. If it wants to avert the

crisis in the home market, it will have to pay attention to the primary needs of the people.

The Indian economy is marked by the survival of the large pre-capitalist classes of exploiters. The state or the capitalist class could not eliminate these classes from society or, indeed, establish their hegemony over these pre-capitalist classes. Since the beginning of the process of capitalism, both the state and the capitalist class have been seeking their help to penetrate into agriculture. There is another relationship between the capitalist and the pre-capitalist classes. As D. D. Kosambi has said, "A good deal of modern Indian capital is in fact transformed primitive feudal and money-lender's accumulation". It means that this method of accumulation is the source of the birth of the modern capital. Again, these classes of traders and money-lenders are the market, root and origin of the present mode of production. Rural labour has started working for these two modes, the pre-capitalist classes in the villages and the capitalist class in the urban areas. A labourer's year is divided into two parts: the rainy season is for the traditional exploiters, and the remaining half for the new ones. The crisis of stagnation sustains and enlivens the primitive modes of exploitation. One more tendency is observed: during the crisis period, everything relapses into primitive ways.

The stagnation crisis has led to a conflict between the small scale industries and the monopoly industries on the one hand, and between the agricultural capital and the industrial capital on the other. Though there are conflicts amongst the different sections of the capital, no-one is interested in forming an alliance with the labour force.

The present stir created by the farmers is the outcome of these conflicting interests. Before the emergence of the capitalist classes, such a stir was not possible. An unequal inter-sectoral exchange between industry and agriculture had previously existed, but until there was scope for the development of capitalism in agriculture and, through it, the possibility of sharing the fruits of development, no such stirs occurred. Now, farmers are demanding that "prices of agricultural produce must be scientifically calculated and fixed on the basis of man hours involved for cultiva-

tion and the cost of inputs as it is done in the industrial sector” (Charter of Demands of Karnataka Farmers).

This situation is aggravated by a deterioration in the terms of trade between India and the industrialised countries. The gap between the prices we pay for our imports and the prices we receive for our exports is rapidly increasing. We are passing the burden of this into not only the weaker sections of society, but also to the weaker partners of the capitalist development.

Relapsing and Deteriorating Tendencies

Before independence, a struggle against ‘landlordism’ was launched in different parts of the country. In the 60’s, the rent-farming landlord system was abolished. In many states, tillers were made owners of the land. But a substantial amount of land is still in the hands of the ex-landlords and the traditional land-owning castes. A new class of profit-oriented and interest-conscious rich farmers has emerged out of the landlords’ class. Only a fraction of those tenants who acquired land from the landlords and who were from the numerically and socially big middle-castes have become rich farmers. None of those tenants who were from either the scheduled-castes or from other, weaker sections of society have benefited from these tenancy legislations.

Then the period known as the “green revolution” commenced. There are some achievements to its credit. We had been facing an acute shortage of foodgrains for decades. Following the “green revolution”, the total production of foodgrains increased from 50 million tonnes in 1950/1951 to 132 million tonnes in 1978/1979. Irrigation facilities have improved and the use of tractors, fertilizers and electricity has increased tremendously. In the areas where the “green revolution” started, the influence of money-lenders initially declined; labour got a little more security. But today this process has practically ended, and, indeed, is gradually reverting. Today the upper sections of the rich farmers are again emerging as a group of money-lenders. Let me quote an example which Ranjit San gives in his article, “Can Capitalism Develop in Indian Agriculture?” (EPW, 1976): “Maghar Singh, a rich farmer from the Ludhiana district says, ‘As a tractor, my money will turn into iron, lifeless and ossified; as a loan it lives and grows’.

The rich farmers are combining a multiplicity of means of exploitation, such as leasing outland, lending money, trading, etc.

One of the healthier trends of the early period after independence was the elimination of "vetti" (forced labour). However, both the "vetti" and the bonded labour systems are again recurring. In the form of forced or contract labour, slavery is being reviewed.

The percentage of the population in relation to agriculture has remained the same. As it is stated in the draft of the Sixth Five-Year Plan, "It is a historically unique fact that over the last six decennial censuses, in spite of impressive development of large-scale manufacturing and infrastructure sectors, the share of the agriculture in the work force has not diminished at all. It was 73% in 1921, 73% in 1961 and 73.8% in 1971."

These economic tendencies began to be reflected in the political sphere, since 1967. The Congress party faced a major defeat in the election of 1967. The outburst of the Naxalite movement was also a symptom of this crisis. This crisis has also led to the emergence of mafias and muscle-men as politicians. With the advent of this new trend, a new kind of economic activity has commenced. The parasitic, unproductive money-making has increased smuggling, whole-sale theft from nationalised industries like coal, production and distribution of illicit liquor, the organisation of nationwide gambling like "matka", and the management of migrants in forced labour. These are just some of the new "industries" which have emerged. This force was used against Naxalites, as a political army. With the success they obtained, the tendency to use force against any outburst of the people has increased and this new "official" force is used against the workers, both the organised and the un-organised. With the emergence of mafia, the retreat of labour as a political force has begun.

The weakest sections of peasantry — landless labourers, tribals, scheduled-caste workers — are those most badly affected by this situation. But, ironically, they have political sympathies for the present system. This contradiction has its reasons. Firstly, they can get employment in all these new "industries" — at least those who are prepared to face the "death" involved in it. Secondly, these people are burdened with two systems of exploitation; one is old, traditional and local, the system of high-caste landlords, money-lenders, etc. The other is comparatively new

and unknown. It is the system of mafias, contractors, and middlemen. Instinctively, they are against the first system — emotions are involved in it. The state sometimes pretends that it is against the local tyrants and is the saviour of the weaker, insecure sections. So the state gets the sympathy of these classes. In the midst of a generally insecure atmosphere, they have no choice but to rely on a government which cannot save them.

Peasants' Organisation : Its Past and the Future

When talking of peasantry, I include the poor, marginal landowners, unprotected tenants, share-croppers and agricultural labourers. And, although the tribals are a different category, as cultivators and labourers, they can be included in the peasant category also.

The organisation of peasantry is a very recent phenomenon. There were a number of peasant outbursts and revolts in the past. But conscious efforts to organise them started during the period of the nationalist struggle. All India Kisan Sabha was formed at Lucknow on 11 April, 1936. The major demands of Kisan Sabha centred on the abolition of zamindari and the transfer of land to the tillers. Landlords were the creation of the foreign rule so it was only natural to fight against them. Initially, Kisan Sabha was the platform of all rural classes, from the rich peasant to the landless labourers. It sought to reconcile the interests of all categories of peasants. In its early nationalist phase, Prof. Ranga, Indulal Yajnik, and Swami Sahajanand were the eminent leaders of the organisation. Since 1945, only communists remain in the organisation.

Under the leadership of the communists, Kisan Sabha organised a number of struggles. The Tebhaga Movement, of united Bengal, the Telengana movement, the different peasant struggles in Kerala and Tamil Nadu, are some of these struggles.

The Tebhaga struggle started in 1946. Its major demand was for two-thirds of the share of the crop for bargadans. In this movement, peasants, instead of taking the paddy to the landlords' Khamars (threshing floor), began to take it to their own or to the Khamars set up by Kisan Sabha. In 1947, the Kisan Council admitted the failure of the movement and withdrew from the struggle.

The Telengana was the peasant insurrection against landlordism. In its early stages, it was a combined struggle against the rule of Nizam and the system of jagirdars and deshmukhas. They were called durra (masters). A durra is a combination of landlord, money-lender and village official. They can demand "vetti" from the peasants and labourers. The majority of the agricultural labourers were from the lower and untouchable castes of Malas and Madigas. Like "vetti", the system of "bhagela" serfdom was prevalent in Warangal and Nalganda districts. They were tied to their masters by debts, and were mostly tribals.

The Kisan Sabha, through the Andhra Conference, launched struggles in the villages for better wages, against "vetti" and "bhagela". Gramrajyams (village soviets) were set-up. The lands were seized forcibly and distributed among landless labourers and tenants. After the Indian Army's march into Hyderabad in 1948, they still continued the struggle. During the latter part of the struggle, the rich peasants withdrew their support — they had earlier gained a great deal from the struggle in its initial phase, by warding off the grain levy. In spite of the gains they had made, they were very reluctant to increase the wages of the labourers, and they ultimately withdrew from the struggle in 1951.

In Kerala, especially in Alleppy, there was a very strong agricultural labourers' organisation, called Kerala State Agricultural Labourers' Union. After 1957, when the first communist government was formed in Kerala, they were able to achieve many successes. They obtained very substantial increases in daily wages. By 1978 the wage rate had reached Rs. 10 per day. Another organisation, called Kerala Tillers' Association, with small cultivators and tenants as members, was formed. The enactment of the Kerala Agrarian Relation Act liquidated tenancy. They then successfully stopped eviction of the tenants and took over the lands of landowners. Mainly, Izhara caste peasants benefited from this Act. As a reaction to these struggles, the Kerala Farmers' Federation was formed in 1957. It opposed the landless labourers' strikes. Nair and Syrian Christians were the main supporters of the Federation. They supported the Congress Party and later on formed their own party, called the Kerala Congress.

In Thanjavur district of Tamil Nadu, there were many successful struggles launched by share croppers, tenants and landless

labourers. The Thanjavur Tillers' Union was established. This was an organisation of agricultural labourers and tenants. The enactment of the Thanjavur Tenants and Panniyal Protection Act provided for the security of tenure, regulation of rents, etc. It organised a number of strikes for increases in wages. Because of the strikes, agricultural labourers in Thanjavur were awarded the highest wages in the whole of Tamil Nadu. In opposition to the uprising of the labourers, the Thanjavur Rich Farmers' Association was established in 1949.

In the Hindi-speaking area, a number of peasants' struggles were organised by socialists. In Bihar, U.P., M.P., a struggle was launched against the eviction of tenants, against landlordism, etc. In Pardi (Gujrat), under the leadership of Ishwarbhai Desai, the land grab satyagraha was launched. But these efforts did not lead to the emergence of any peasant organisations.

These struggles led to enactment of a number of legislations regarding the abolition of landlordism; the fixing of minimum wages; various ceiling acts; and various tenancy acts. Forced labour was legally banned. Legislation was passed against bonded labour. But the situation has not improved. M. N. Roy once said, "The abolition of landlordism is a feature of historically earlier revolutions". Still, this remained an unfinished revolution. Not only has landlordism survived, but the landlords have begun more offensive. The rich peasants and the landlords have launched a drive to grab land — from government waste lands, forest lands, village common lands, bhoodan lands, and even the surplus ceiling lands which had been distributed to the landless labourers. They do not conform with any minimum wage acts. They do not tolerate any strikes or the organisation of workers. They are sometimes using extreme violence against labourers and scheduled-caste workers, and have allegedly set fire to their huts, etc. To avoid these atrocities, the labourers flee from their villages. In the outside areas, they again become prey in the hands of contractors and other oppressors.

In some states such as Kerala, West Bengal, Tamil Nadu, and, to some extent, in Maharashtra and Karnataka, tenancy legislation is better implemented. Here the tenants have acquired land, and thus become landowners themselves, but with the exception of a few cases, their situation has not changed and they have merely

transformed themselves into hungry, producing peasants. By virtue of their struggles, they have been pushed back into a primitive mode of agriculture — subsistence farming.

In these areas, the landless labourers have achieved substantial increases in their traditional wages, but they are unable to get more work. This is especially true of Kerala and West Bengal where a number of legislations have been passed to regulate wage conditions, but there the progressive state governments are not able to increase the productivity of the land and so the job opportunities in agriculture have remained the same.

When the tenants in these states become landowners they then become luke-warm in their attitudes towards their organisations. The leftist parties have not made serious efforts to organise these new landowners: on the contrary, they condemn them and leave them to be used by the rich farmers for their own interests.

In areas such as Punjab, Harayana, Western U.P., Andhra and Gujrat, with the advent of the capitalist farming, labourers could initially, to a certain extent, improve their lot. But now the process has slowed down due to different reasons — one of the main reasons being the availability of cheap, migrant labourers.

The time has come when peasant organisations have to be rethought about afresh. More effort is needed in organising landless labourers to fight-off those tendencies that create large-scale migrations of slave-like labourers. They must be organised in their villages and in the work they take after migration. Special attention should be paid to the problems of tribals. They are forcefully alienated from the forest areas by the enactment of new, rigorous legislation. They will add to the bulk of unskilled rural labourers who are migrating. So there is a danger that labour would fight against labour. It should be the concern of the new organisations to take care of all these possible pitfalls.

The hungry producers who are engaged in cultivating lands for their own survival but are unable to do so would also go out to seek work, particularly during the lean seasons. Whatever they produce is not their own — they could not retain it. Others would snatch it and they would be deprived of their means of livelihood. It does not matter whether they produce for their personal consumption or for the market. One thing is to be remembered: when a sizeable quantum of such hungry producers

exists, even those who produce for profit are not able to obtain more than nominal prices for their produce, or at least they are not able to dictate their own terms on the market. That is why the present demand of the farmers to have more equitable terms of trade between industry and agriculture does not have a chance of success. They will have to seek in alliance with the hungry producers. First, these hungry producers need to be organised, otherwise this kind of alliance would not be profitable to them. The trend of using the hungry producers in order to accumulate is spreading to other spheres of the rural economy. The so-called "white revolution" is an example of this. The hungry and landless labourers and the marginal peasants would produce milk from the cows and buffaloes provided by different welfare schemes. The hungry producers will produce and the so-called co-operatives, the multi-national companies and the government departments, would collect the milk, paying only the bare survival prices. Here the producer cannot refuse to produce nor can he demand correct prices. This has been happening for a long time with regard to agricultural production.

To organise these peasant producers, new methods and approaches should be evolved. They must be convinced to produce mainly for their own consumption first, with the co-operation of other such hungry producers.

There is a need for a more comprehensive organisation of both hungry labourers and hungry producers. The labour and the means of production, whatever they have, need to be organised against hunger. The modalities of such an organisation need to be spelt out before the problem can be seen in its right perspective. And the organisation of such hungry labourers must go beyond the present trade unions, in that they must not be like the present co-operatives. Most of the co-operatives are run under the leadership of capitalists. The crisis of stagnation can only be averted through such organisations. Under the leadership of labour, productivity can only be increased.

There is a need to form a historic block of the producing classes against the non-producing powerful forces. I know it is a tremendous task, but anything short of it will not work.

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SOCIO-ECONOMIC STRUCTURES AT VILLAGE LEVELS AND ORGANISATIONS OF FARMERS IN THE ASIAN REGION

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Political, social and economic power in rural areas of South Asia is concentrated in small landed elite. These people wield great influence and power and discourage worker organisations fearing that it would interfere with their vested interests. Various socio-economic patterns backed by traditional values too are barriers to such development. The individual cultivator has virtually no bargaining power. The employers are better educated and skilled and could easily suppress the employees. The employer-employee relationship is semi-feudal in character and there are no peasant organisations to help them. Machinery to initiate or give effect to labour legislation is almost non-existent.

Since 1923 ILO has played somewhat of a significant role in the progress of the Asian rural worker. At their first session of the Asian Regional conference in 1950, the following recommendation was made, namely—

‘that there should be machinery in agricultural employment with equal representation of employers and workers for the following purposes :

1. Fixation of wages including perquisites adequate to satisfy the minimum needs of a agricultural worker and his family.
2. Fixation of differential rates of wages according to skills involved.
3. Regulation of payment or in kind.

The ILO during the last 50 years was instrumental in setting up the following conventions aimed at improving the living standards of rural workers :

1. Minimum Age (Agricultural) Convention No. 10 of 1921.

2. Right of Association (Agricultural) Convention No. 11 of 1921.
3. Workmen's Compensation (Agricultural) Convention No. 12 of 1925.
4. Minimum Wage Fixing Machinery (Agricultural) Convention No. 99 of 1951.
5. Holiday with pay (Agricultural) Convention No. 101 of 1951.
6. Plantation Convention (Agricultural) Convention No. 111 of 1958.
7. Rural Worker Organisations Convention (Agricultural) No. 141 of 1975.

The question which we now have to answer is how many Asian countries have ratified these conventions or passed labour legislation based on these conventions. Why did not the countries ratify these conventions and pass labour legislation to comply with them? How can these be done? Even in countries where labour legislation exists based on these conventions, technically the rural worker is deprived of legal protection due to the seasonal nature of their employment and the intermittent nature of agricultural work. These questions should engage our minds and answers and solutions be worked out if possible.

The 1979 Report of the ILO Conference on the organisation of the rural workers sums up the position admirably, "that whilst in most developing countries urban workers can legally form and join organisations of their own choosing, right to form trade unions does not always extend to the rural wage-earner and seldom to the peasant. This is both the cause and the result of the very unbearable position of these workers who formed the poorest and often exploited categories".

The ILO Convention on Rural Workers Association No. 141 of 1975 and Recommendations 149 have now adopted standards re-affirming the right of the rural workers, employed and self-employed to form and join organisations of their own choice. These instruments have also indicated how rural workers' organisations can contribute to raise the standards of living, through rural development.

Workers' Organisations, e.g., Trade Unions, have evolved through development and growth in industrial society in the West during the 19th century. From the very start these unions were concerned with and concentrated on the worker. Trade unions in Asian countries developed to be organs for political action. In Sri Lanka in 1918 urban workers formed Trade Unions but the rural workers trade union was formed only in 1930 and it was confined only to the plantation workers, and intended to safeguard the interests of immigrant workers of the plantations. Labour legislation was only applicable to the organised sector, e.g., legislation relating to wrongful dismissal, collective bargaining, etc., none of these applied to the rural worker. Even in India for a long time labour legislation relating to the rural worker was the Minimum Wages Act of 1948.

Initiating these laws and working for its enforcement would create an ideal atmosphere for the formation of trade unions. It is only through trade unions that grievances could be ventilated, and reference made to arbitration and for collective bargaining and collective agreement.

Economic development in the rural area could be effectively organised because—

1. Rural workers in the Asian countries are traditionally used to the concept of co-operatives and self-help.
2. Different types of rural societies and co-operatives exist in Asian countries, some of them at the village levels.
3. Trade Unions and co-operatives could together work towards promoting the raising of labour standards, organising vocational training programmes, and general education programmes.

The most effective method of attempting to improve standards for the rural worker is through trade unions but unfortunately, due to various constraints on the immediate development of trade unions in Asian countries immediate attention should be focused to stir and re-vitalize co-operative movements at the village level for collective bargaining, wage fixation, social welfare, vocational training and social security.

In some countries in Asia, e.g., Indonesia, a novel form of co-operatives merger led to improve the living conditions of rural

population. This is known as Badar Usaha Unit Desa (BUUD) which were co-operatives in the formative stage and KOPERAS Unit Desa (KUD) which were primary co-operatives. They now have a common programme. In Bangladesh, SWANIRVAR Movement works out new strategies for development and improving living standards of rural workers. This has led to improvement of standards among the rural agricultural workers. Similar co-operative institutions are found in Thailand, Taiwan and Malaysia.

To reduce poverty and increase food production agrarian reform and the promotion of farmers and rural workers organisations are priority issues. Such reforms are also necessary to enable large masses of people to participate more fully in society. Wider participation in the development process must be encouraged, measures to achieve this could include decentralised governmental administrative systems and support for relevant voluntary organisations.

The conventional measures in raising living standards of workers is through trade unions and without compulsory veering away from conventional methods, the co-operative first, trade unions next principle is advocated in this paper.

QUESTION OF ORGANISATIONS OF THE PEASANTS IN NEPAL

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The total population, in Nepal, 95 per cent live in rural areas and 93.8 per cent depend on agriculture.

The topography of Nepal is very peculiar. Only 16.49 per cent of the total land area is fit for cultivation. Though hilly region constitute 73 per cent of the country with the remaining 27 per cent of the plains, the latter constitute the major portion of the cultivable land of the country whereas the hilly and mountainous region constitute mostly rugged and difficult terrain.

The peasants of Nepal who constitute the largest part of the population can be broadly divided into the following categories in terms of the landholdings :

- (1) Land-owners upto 28 Bighas (hectares).
- (2) Small land-holders,
- (3) Tenants, and
- (4) Landless labourers.

The majority of the peasants are small land-owners, tenants and landless labourers.

In the political scheme of Nepal, political parties or politically motivated organizations are banned. No political activities, propagation or contact is permitted. Several legislations have been enacted to disband party politics, particularly oppositional political activities. Only activities of such political nature that are in consonance with or directed by the authority are permitted and encouraged. Pro-system political activities with forums and organizational levels backed by government are permitted while oppositional political activities are disbanded in the name of the partylessness.

If party politics are disbanded, the rights to form union and association of class and other nature are restricted.

In Nepal, peasants like any other class cannot organize themselves and form their own organization, whatever lawful or innocent their objectives may be. The present political system of Nepal recognizes the potent force of organizations, specially the classes of peasants and labourers. That's why the constitution is very explicit that there will be only one officially recognized class organization for each class. Art. 67A of the constitution is self-explanatory. To quote :

Art. 67A. Provisions regarding class organization

In keeping with the objectives of the Panchayat system to promote the welfare of the people by creating a democratic, just, dynamic and exploitation-free society, by bringing about harmony among the various classes keeping in view the greater interest of the nation, the following class organisations shall be formed and run with a view to integrate and utilize the united strength of the various classes for the development of the nations and to help the local panchayat to mobilize the general public—

- (a) Nepal Women's Organization.
- (b) Nepal Peasants' Organization.
- (c) Nepal Youth's Organization.
- (d) Nepal Elder's Organization.
- (e) Nepal Labourers' Organization.
- (f) Nepal ex-Servicemen's Organization.

Membership of any of the class organizations mentioned in (I) shall be compulsory for any person contesting as a candidate in the election of any level of panchayat to be held after the commencement of this article.

The class organizations specified in clause (I) shall be constituted in such a manner as it may function at the level of village or town, district, zone and also the centre and the composition, functions, duties and powers of each of them shall be as prescribed by "law".

To give effect to the provision of the Constitution, Class Organization Act, 2036 (1979) and Class Organization Regulation 2037 (1980) has been enacted. It gives legal basis of the class organizations including the peasants' organizations with organiza-

tional levels. Structurally, the organization will be four assemblies — preliminary, district, zonal and central and four executive committees one for each assembly. Objectives of the association has been made to be in consonance with the panchayat polity. The terms and conditions of the membership are strictly laid down. Such class organizations has to strictly comply with instructions of HMG as and when such instruction is given.

Peasants in Nepal therefore cannot form separate organizations. Apart from the constitutional restrictions, the peasants in Nepal like other persons counter another legal restriction on the right to form union or association. The Association Registration Act, 2034 (1977) explicitly provides that any association, centre, club, council, union, study bureau, etc., cannot be formed unless it is registered with the district office of His Majesty's Government.

The registration is not a simple process and done as a matter of right. Applications has to be submitted under the prescribed form and the local authority may register association only if it seems proper under Sec. 4(2). A provision to appeal has been provided against any refusal to register an association. The appellate authority is the zonal commissioner, who after making necessary inquiries and if deems proper, issue order for registration.

The registration of the association depends on the subjective satisfaction of the registering authority. The judicial precedent as it stands now, cannot question adequacy or proprietary of, and interfere in the domain of subjective satisfaction.

The certificate of incorporation or the recognition to the incorporated association does not guarantee permanency of the association. All associations are subject to wish of the registering authority. The registration is valid for only one year, and must be renewed each successive year.

In Nepal, the right to form union and assembly as human and basic right has yet to be realised.

PARTICIPATION OF THE PEOPLE IN GOVERNMENT: SRI LANKA EXPERIMENT*

D. P. B. Mahadiulwewa

Chairman, District Development Council

Sri Lanka is divided into 24 districts with a Government Agent acting as head of the administration in each district. A Government Agent is a senior administrative officer exercising executive powers. Each district is further divided into Assistant Government Agent divisions which are further divided into Grama Seva Niladhari divisions. A Grama Seva Niladhari consists of about ten to twelve villages covering an approximate population of 2,000.

The Parliament of Sri Lanka, by passing Amendment No. 45 of 1981, has set up a council in every Grama Seva Niladhari division known as a Gramodaya Mandalaya, and in every Assistant Government Agent division known as a Pradeshya Mandalaya. Both are non-political bodies. The Gramodaya Mandalaya consists of the chairmen of all village level societies and a 'special services officer' functions as the Secretary. The elected chairmen of Gramodaya Mandalaya form the Pradeshya Mandalaya with the Assistant Government Agent as its Secretary.

Link with District Development Council

Each district has a District Development Council which consists of members elected at a district level election conducted on the same lines as the Parliamentary election. The chairman who is elected by the members of the council is responsible for conducting the proceedings of the council. Besides the chairman, two other members are elected to form the executive committee of the council. The District Minister who is appointed by the President heads the executive committee. The executive committee prepares the annual development plan of the district. Since the creation of the Pradeshya Mandalaya and Gramodaya Mandalaya, they are asked to identify their problems and suggest priorities for inclusion in the annual development plan. In this

* Summary of the paper.

way proposals from the grassroots come through the Pradeshya Mandalaya and Gramodaya Mandalaya.

Another important aspect is that in all meetings of the Gramodaya Mandalaya, Pradeshya Mandalaya and the District Development Council, the concerned government officials have to be present. They can be summoned if necessary. This enables speedy implementation of the projects.

The Pradeshya Mandalaya and Gramodaya Mandalaya are given preferential rights for executing projects approved under the plan.

As a chairman of one of the District Development Councils, I promoted the idea of executing projects on a Shramadana (voluntary) basis. The idea is to save on the budgeted cost of the project, and to use the money saved for other purposes decided by the Gramodaya Mandalaya. Through the Shramadana concept we hope to create a national awakening among people and a feeling of contributing their sweat in the cause of nation building.

COMMITTEE III — BONDED LABOUR

BONDED LABOUR IN INDIA

Swami Agnivesh

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About seven years ago the Government of India adopted a scheme to eliminate the phenomenon of bonded labour from the rural economy. The work had to begin from scratch, for no one had any idea about how deep the problem was. It was a very difficult task to write into the law the concept of unequal exchange which caused human bondage. Beginning with a standardised definition of bonded labour, State Government were asked to formulate schemes to identify individual labourers or families living in bondage and rehabilitate them under specific schemes to ensure that they did not fall back into bondage once again.

As of today the work appears to be far from being achieved, and this was not because of lack of resources. As we shall see presently, a large part of the funds allocated for the identification and rehabilitation of bonded labour during 1980-85, the period of the country's sixth Five Year Plan, has remained unutilised. There have also been reports of such funds having been utilised more in effect to support an expanding bureaucratic machinery than for the actual work of rehabilitation. An interesting development in this regard is that the Central Government is today under considerable pressure from the States to amend the definition of bonded labour to make it less comprehensive and to allow the traditional modes of servitude to continue without let or hindrance.

The existence of bonded labour is being found in areas unthought of only a few years ago, such as brick kilns and stone quarries, and the revelation that bonded labour could exist even within the framework of legally valid contractual employments, as in the case of migrant labour, has brought out the fact that legislation and official measures could have only a limited effect to curb the age-old exploitative net-work against the village poor.

What is more, the work of voluntary organisations and exposures on rural conditions in the media have generated counter-pressures by rural vested interests, often leading to outright attacks by hired goondas of the rural rich on any group of the under-privileged seeking even the most elementary rights guaranteed under the law. Clearly, the time has come for a new approach to the problem.

It is the purpose of this paper to present an understanding of the structural factors that have largely been responsible for the insufficient impact of the schemes on bonded labour. In the process we shall attempt an alternative approach, taking into account the experience of the last seven years. A vast body of detailed literature has appeared on the phenomenon of bonded labour. While it is not the purpose of this article to add to the details, it would nevertheless be useful to outline certain broad parameters so that the suggestions that we shall attempt may be viewed in the right context.

A definition of the problem, to begin with : the Bonded Labour System (Abolition) Act of 1976 has laid down a fairly precise definition of bonded labour which may be summarised as follows : a bonded labourer is a person who is pledged to work for his creditor (or the creditor of a member of his family) against nominal wages in cash or kind till the creditor declares that the loan is repaid. During the period of bondage, the labourer does not have the freedom to seek other employment or other means of livelihood or the freedom to move from one place to another. In other words, a bonded labourer is pledged to work for a pittance to redeem debts which may not even have been incurred himself or by his lineal ascendants. Given the usurious rates of interest that are normally levied in such cases, a labourer once bonded in this manner is bonded for life. In certain parts of the country, where the phenomenon exists in its more acute form, labourers have been known to be in bondage to redeem debts incurred several generations ago.

The phenomenon is generally accepted to be substantially the results of the extreme poverty that large masses in rural India live in. But the cause for concern lies not so much in the existence of bonded labour as in the factors that seem to perpetuate its existence. The major question is the increasing alienation of small

and marginal farmers from land and the consequent increase in the number of agricultural labourers. The 1901 census had revealed the number of agricultural labourers to be 18.8 million. Their number has steadily increased since; to 27.5 million in 1951 and 47.5 million according to the 1971 census.

To a large extent the increase is natural, given the large increase in population that has taken place during the same span. What is relevant in this context, therefore, is the established fact of deterioration in the economic condition of agricultural labourers. The Rural Labour Enquiry Report of 1974-75 shows that there was an increase in indebtedness over the decade from the mid-1960s from 61% of the rural labour households to 67%. The average debt per household increased from Rs. 224 to Rs. 584, with a larger share (48%) being raised through loans by rural money lenders than at the beginning of the ten-year period under study (when it was about 30.6%). The substantial reason for this is the failure of the economic system and the administration to ensure that rural workers were paid the minimum wage guaranteed under the law. It is an accepted fact today that while agriculture has seen a major break-through in terms of increasing output and productivity, except for certain areas of the country there has not been any positive correlation between increase in output and increase in productivity. The average *per capita* income of agricultural labourers was estimated in 1975 to be about 42% of the national average. (G. Parthasarathy and G. P. Rama Rao, *Minimum Wage Legislation for Agricultural Labourers*; Economic and Political Weekly; September 27, 1975).

The position today is that it is officially recognised that even the minimum wages specified by law do not necessarily ensure for the agricultural labourer a living above the poverty line. Only last year (1981) the conference of State Labour Ministers recommended that an appropriate criterion be developed to ensure "in a phased manner" that minimum wages did not fall below the poverty line. There is, however, a considerable difference of opinion still on what really is the cut off point which could be used as the reference for the poverty line. According to the Indian Planning Commission, the poverty is the mid-point of the monthly *per capita* expenditure needed to sustain a daily calorie intake of 2,400 per person in rural areas and 2,100 in the urban area. At 1979-80 prices, this works out to a wage of

Rs. 76 per month for the rural areas. On the other hand, Dr. C. Gopalan, a former Director-General of the Indian Council of Medical Research and now the head of the Nutrition Foundation of India, is known to be of the view that the average calorie requirement for a family of four (the labourer, his wife and two minor children) is about 8,100. The differences have not been, resolved, not even at a conference of leading scholars last year which took place specifically to attempt a more rigorous definition of the economic situation in the rural areas of the country. While this only goes to illustrate the inadequacy of the data at present available, the existence of severe poverty in large pockets of rural India has not been denied. Moreover, the experience gathered in the implementation of the numerous schemes on the reduction of poverty is sufficient to draw certain broad conclusions for the field workers.

The slow progress achieved and often the indifference of State Governments on the rehabilitation of bonded labour is one of the stark realities that any research worker is immediately confronted with in this area of study. To take a specific example, a mid-year assessment for the financial year 1982-83, carried out by the Labour Ministry of the Central Government found that five of the eight States (which had recognised the existence of bonded labour) had nothing to report on the work done during the year. Among the four were Andhra Pradesh, Bihar and Karnataka all of which are known to have thousands of bonded labourers. Of the others, Orissa reported that only 1,111 bonded labourers had been freed against the year's target of 7,500 and Uttar Pradesh reported 989 freed against the target of 4,249. Considering the manner in which bureaucracies are known to function, especially at district level, it may safely be assumed that by the end of the year all the targets will be achieved if only on paper. The Labour Ministry has nevertheless observed in a note: "It is imperative that the State Governments take concrete steps urgently to achieve the target by the end of the financial year. State Labour Secretaries/Ministers may be requested to instruct the concerned departments to formulate schemes to rehabilitate the remaining bonded labourers. . . ." How far such exhortations will eventually succeed may easily be gauged from the fact that a large part of the funds that the Central Government allocates to States for rehabilitation pro-

grammes (reimbursing half the expenditure incurred) have lapsed because State Governments have neither formulated schemes for rehabilitation of bonded labour nor furnished the necessary documentation as proof of actual implementation of rehabilitation programmes. For the first three years of the current Five Year Plan period (1980-85), against the Rs. 250 million allocated by the Central Government to grants to State Governments for the rehabilitation of bonded labour, the amounts actually released was Rs. 39 million. Utilisation certificates were furnished by States for only Rs. 15.5 million.

The dismal performance of the official rehabilitation machinery naturally strengthens the case for a deeper participation of non-governmental bodies in the movement for bringing about the necessary changes in rural India. Such participation has in fact been long standing, especially by rural wings of political parties which are ideologically committed to rural transformation through a change in the agrarian structure. The complexity of the economic situation has, however, proved to be one of the fundamental obstacles to any movement of agricultural workers which has sought to spread out from its district or region of origin. Ranged against the dominant landed interests, often semi-feudal in nature, is a vast hierarchy of landownership, share croppers, small and marginal farmers and the rural proletariat. Production conditions dictate the employment of hired labour even in small farms and in land leased for cultivation by the relatively better off share cropper, even though he may himself not be a landowner of significance. The problem encountered by rural organisations is the numerous conflicting interests that have inhibited the mobilisation of a large majority of the peasantry against the dominant exploiting interests. On the other hand, the easy availability of cheap labour has frustrated many attempts to organise agricultural labour along urban trade union lines.

The point has been made in a recent study that a major inhibiting factor in the organisation of the rural poor has been the attitude of the administration, especially at the district level. An apparatus primarily designed to maintain public order, and ensure revenue collection, has looked upon any rural tension as a challenge to responsibilities. Considering the long drawn out procedures that need to be observed in any civil dispute, often with no result, there has been understandable impatience on the

part of peasant activists to force the implementation of reforms laws by organising strikes or land occupation struggles. Tensions thus generated have invited action by the law and order machinery charged with upholding a civil code heavily biased in favour of property relationships. The author cites the example of the Indian Penal Code which lists about 134 offences against violation of property relationships and public tranquillity. These make up one-third of the penal code, giving them a position of dominance against the few laws that have been encoded on land reforms and other measures to change the agrarian structure. (D. Bandyopadhyay — *External Impediments to the Growth of Organisation of Rural Poor in India*; National Institute of Labour Bulletin, Vol. III. No. 4).

On another plane, the experience of non-political organisations like co-operatives and specific government sponsored programmes to encourage the mobilisation of the rural poor, has not achieved any greater success. Most of what has been written about in this context indicates the failure of rural co-operatives and government aided boards like the Khadi and Village Industries Commission entrusted with the promotion of certain kinds of rural crafts to promote employment. The latest reports available from the Planning Commission suggest that the extremely high rate of default in the repayment of institutional loans advanced to co-operatives societies has created a financial crisis seriously threatening the future of the movement. The limited potential of rural crafts in providing the necessary employment opportunities has become clear from the need to provide long term subsidies so that they can continue. It is clear by now that the technology employed in such units does not provide a surplus sufficient to sustain a self-generating growth process. Far from providing the basic consumption requirements of the rural poor, the "Khadi industries" have become at best the producers of high priced semi-luxury articles mainly consumed by the relatively affluent urban elite. Modern technology, however, appears to have provided a way out of this kind of impasse. Recent developments in the electronics industry, for instance, have provided scope for the establishment of small assembling units with the help of semi-skilled personnel who can be trained in a short time. Similarly, there is a whole range of consumer goods, like polyesterised textiles, preserved foods and leather shoes, which could capture a significant portion of the market for consumer goods. But as the few successful co-opera-

tives, like the dairy industry in Gujarat, has demonstrated, the essential factor of success is the existence of an efficient organisation which is able to mobilise the small individual efforts for the generation of an overall surplus.

The solution of the rural problem today thus depends essentially of grass roots organisations. We would, therefore, suggest that the approach should be one of recognising the possibilities and not the limitations of the numerous experiments of social change that have been attempted, and from all possible political and social points of view. Significantly, India can probably boast of the most exhaustive legislation seeking to bring about changes in the agrarian structure. As a participant in a recent seminar pointed out, Lenin's decree on land reforms in Russia consisted of barely four lines. The Chinese land reform laws are contained in no more than 30 pages. But the net result of the 60 odd pieces of legislation in India, from land reform and tenancy acts to the release of bonded labour, has been that landlords continue to rule the roost. (Dr. P. C. Joshi; unpublished talk at a seminar at the National Labour Institute).

Elsewhere, the same author notes that the dynamic element in the new social situation which offers considerable possibilities of change in the agrarian system is the growing independence of power from the influence of traditional landed interests. The factor which acts as a serious constraint on further changes in the agrarian system in the interest of the have-nots is the lack of organisation among them. (Dr. P. C. Joshi: *Land Reforms in India — Trends and Perspectives*, Institute of Economic Growth, Delhi).

One of the requisites of such organisation, therefore, is knowledge of the implementation of the numerous laws and government measures that have been attempted so far. Collection of information of a comprehensive nature is not an easy task considering the large number of specialised bodies involved in various kinds of rural programmes. The paramount needs, therefore, is that of co-ordination. An attempt has been made in recent years to hold camps of voluntary workers at which an attempt is made to create an interaction between experts and field workers. The Government has also recognised the immense possibilities of such a method. Schemes have been introduced to encourage the formation of grass-roots organisations with the help of stipendiary

volunteers. The efforts so far have been too limited to be of significance, but change cannot be achieved overnight. Beginning with a recognition of the perceptible differences that have been brought about as a result of the steps taken so far, the future strategy must rest on spreading a greater awareness of actual conditions and the scope that existing institutions offer for mobilising the have-nots towards a better future. Recent developments of the visual media, especially television, present a more effective vehicle of campaign than has been so far possible. This has been recognised in the country's programme to take television to the villages. However, the power demands on media made by the urban audience was amply demonstrated when the satellite television scheme through INSAT was devoted wholly to the Asian Games programmes. Even the failure of INSAT has not dampened these efforts. Links have been established with foreign owned satellites stationed over this part of the world. Everybody appears to have forgotten that the original purpose of satellite television was to provide area specific programmes to the rural masses.

The present situation viewed from any angle is dismal. But it is not the time for abject despondency, at least for those who think that this irrational order has to change. In fact, the magnitude and depth of the problem present a challenge which no social reformers in history have had to face. Bonded labour has now become an esoteric subject for discussion among elite intellectuals. It has become a matter of personal challenge to a few eccentric crusaders. Nothing much can be done unless we can mobilise voluntary agencies including trade unions and political parties to rally round the cause and build up sufficient pressure on different agencies charged with the task of eliminating the scourge. Continuous exposure of the prevalence of the system in different parts of the country is required to be done systematically to shock the public conscience and develop public opinion. The role of the Judiciary has been magnificent in tackling the problem. Now that public interest litigation has become a part of the Indian judicial system, many more cases have to be brought before the Supreme Court to seek specific relief for the hopeless group. Lawyers and Bar Associations have to play a more positive role as a profession than they have done so far. And programmes of asset distribution and asset creation for the poor should not remain the close preserve of village bureaucrats or panchayats. Public atten-

tion has to be focused on this issue to ensure that these programmes are implemented for the benefit of those for whom they are meant. One can understand, though there is no rationale for it, the hesitation of State Governments in implementing direct rehabilitation programmes for bonded labour, as they are averse to accept the ugly reality of their existence. But all other poverty alleviation programmes, including land reform, do have a direct beneficial effect on this hapless group. A conscious policy to seek to bring them within the ambit of these programmes would help them greatly.

It has to be mentioned that the role of the political parties and organised trade unions has been non-existent or minimal in dealing with this problem. It is unfortunate that the historic judgement of the Supreme Court of India on ASIAD workers, which is one of the finest judicial texts in defence of basic human rights has almost gone unnoticed. Not only that, what is painful is that there is almost a shade of resentment in many faces in the establishment that the Supreme Court had "blown out of proportion" such a minor incident of infraction of the Minimum Wages Act and Bonded Labour (Abolition) Act, whose existence is unknown in high social circles. This ethos needs to be countered both from inside and outside. All friendly forces have to combine to make a dent in the unethical system where affluence of a few is ensured by penury of the many.

COMMITTEE III — LANDLESS LABOUR

THE ROLE OF RURAL WORKERS' ORGANISATION*

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Introduction

The Universal Declaration of Human Rights was adopted by the United Nations in 1948. It proclaimed, among others, freedom from fear and want as the highest aspirations of the common people without exception of race, sex, language, religion or social and economic status in a society. Of particular significance are the two covenants — on Civil and Political Rights and on Economics, Social and Cultural Rights — adopted by the General Assembly in 1966. By July 1982, 73 States had ratified the Covenant on Economic, Social and Cultural Rights while 70 States had ratified the Covenant on Civil and Political Rights.** A ratifying State accepts the responsibility to take steps individually and through international assistance to achieve progressively the rights recognised in the Covenants.

There is a close relationship, among others, between rural development and human rights. One effects the other. This is to be seen in the context of securing freedom from want, protection against exploitation, right to participate in an organisation of own choosing and enjoying social security. The past experience has revealed it beyond any doubt that rural development oriented to 'growth' does not necessarily lead to freedom from want of the large mass of people below the poverty line. Therefore only such rural development is compatible to human rights which allows equitable sharing of growth. The 'sharing' reflects a process, involving a number of variables such as the will and ability of the people to

* The views expressed in this paper do not necessarily imply the expression of opinion of the International Labour Organisation.

** Unfortunately only very few countries have ratified the two covenants in the Asian region.

work, opportunity to work, the intellectual and physical capacity of the people to participate in the process, equitable distribution of productive resources, availability of inputs and markets; equitable policy of resource allocations, law and order situation. Thus 'sharing' does not imply dependence but instead it refers to equality, self-respect and individual dignity which means individual's freedom of choice and action. Hence rural development when perceived and practised as a process of growth, equitably shared by the common masses in a society becomes compatible to the acquisition process of human rights.

The human rights in themselves also facilitate the process of rural development in the sense that human rights enable the large masses — the low income groups — to contribute to the process of growth and sharing by recognising the rights of an individual to :

- free choice of work;
- just and favourable conditions of work;
- formation and joining of associations/organisations of own choosing;
- social security; and
- liberty of movement.

Without these rights, optimum growth and its equitable sharing would not be possible and perhaps the vast human resource — the most valuable capital — cannot be mobilised to make their optimum contribution to growth and development. Thus human rights and rural development are interdependent and one without the other cannot be perceived to take place.

ILO Standards

The International Labour Organisation is aware of the fact that the promotion of Human Rights cannot be left to itself and is not brought about automatically by development or economic growth. There is an evident need for intervention. This is all the more necessary as it is commonly difficult to enforce legal rights and freedoms; particularly in respect of socially and economically disadvantaged groups. Perhaps, one needs to make a distinction between such rights effecting the humanity directly and such others which arise during the implementation course of economic and social programmes. For example, the constitution of a coun-

try may allow its citizens the fundamental right of equality. Accordingly the low income groups have as much a right to equal treatment in respect of the farm-inputs, acquisition of skills and to take advantage of the educational and medical facilities as high income level groups. Resources being scarce and the low-income groups being unorganised and not sensitised enough are however left out of the process. The right allowed constitutionally is not permitted to be enjoyed during the course of a development programme. In such a case, it is a question of designing as a whole the society best calculated to create an atmosphere and spirit to fulfil the rights of all individuals. Or enabling the people to secure rights for themselves under the production of the law and the State.

The ILO means of action for formal recognition of the human rights and to create conditions for their realisation is through standard setting by way of Conventions and Recommendations. Following is a brief description of such international standards on basic human rights of concern to ILO. As and when, these are adopted by the member states, necessary conditions are created for greater application of human rights than before.

Freedom

ILO standards deal with two types of freedom. One is the freedom of association and the other is freedom of choice of employment. The freedom of association is reflected in a number of Conventions and Recommendations such as Right of Association (Agriculture) Convention (1921), Freedom of Association and Protection of the Right to organise Convention (1948), Right to organise and Collective Bargaining Convention (1949) and Consultation (Industrial and National Levels) Recommendation (1960). These standards provide that workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concern, to join organisations of their own choosing without previous authorisation. The provisions of these standards assure furthermore the independence of the workers and employers' organisations.

Freedom of association enables particularly the workers in a country to give expression to their aspirations, strengthen their position in collective bargaining, establishing a balance in the strength of the workers and employers and provides the necessary

counter-weight to the power exercised by the State in a modern economy. Freedom of association helps to bring about a better climate of labour management relations and thus contribute to social justice and economic progress.

Freedom of choice of employment presupposes that forced labour is abolished and a situation of nearly full employment prevails. Towards this end, the Forced Labour Convention (1930) provides for the abolition of forced or compulsory labour in all its forms. The Abolition of Forced Labour Convention (1957) provides further refinements and advocates the abolition of compulsory labour as a method of mobilising and using labour for purposes of economic development, as a means of labour discipline, as a punishment for having participated in strikes and also as a means of racial, social, national or religious discrimination.

Employment Policy Convention and Recommendation (1969) are the other two standards which recognise the right to freedom of choice of employment. The purpose of these standards is that States should pursue an active policy to promote full, productive and freely chosen employment.

Equality

The most comprehensive labour standards on equality are the Discrimination (Employment and Occupation) Convention and Recommendations (1958) which aim at equality of opportunity without any distinction, exclusion, or preference to race, colour, sex, religion, political opinion or social origin. Social Security Convention (1952), Equality of Treatment Convention (1962) and Protection of Migrant Workers Recommendation (1955) provide for equality of treatment between nationals and non-nationals, the grant of medical assistance to migrant workers and other benefits without discrimination. As regards discrimination against sex, ILO advocates the principle that "men and women should seek equal remuneration for work of equal value". This fact is further underlined in Remuneration Convention and Recommendation (1951). Sub-standard housing received also the attention of the ILO. In this respect, the Workers' Housing Recommendation (1961) seeks that tenancy or ownership of the houses shall not be refused on grounds of race, religion, political

opinion or trade union membership in all housing programmes supported financially by the public authorities.

Economic Security

The Universal Declaration of Human Rights as well as the Covenant on economic, social and cultural rights recognise economic security of human being as fundamental. This can however be only ensured when work is available to all those who desire it. That right to work is specifically referred to in the Employment Policy Convention and Recommendation (1964). In this context, international labour instruments also provide for vocational training and guidance, organisation of employment services, employment of particular categories of workers such as young workers, seamen and fishermen.

ILO is vitally concern with the protection of worker against unemployment, sickness, disease, injury arising out of his employment, maternity, invalidity, as well as provision for old age and protection of members of worker's family. All this constitutes an internal part of the concept of social security. Numerous Conventions and Recommendations cover various risks, thus allowing a basic right to all workers who happen to be in need of such protection. Social Security does not need to be provided in cash but it could also be made available in kind and thus contribute directly to the income security. However, the range of contingencies to be covered, number of persons to be protected and minimum rates of benefits to be allowed would depend on the level of development and need of individual countries. A developing country may adopt a different mix of contingencies than the developed country as employment injury, sickness, maternity, old-age pension and others depending upon its resources and willingness to provide for social security to its working class.

The final element of the economic security is the right of a worker to a minimum income. It has vital implications effecting the economy, the people and the international trade. The main objective of minimum income is basically to reward labour at a minimum level and avoid unfair competition between the employers as between the countries. The Minimum Wage Fixing Machinery Convention and Recommendation (1928) insists on

wage regulating arrangements and draws attention to the need of guaranteeing minimum wages to workers. A subsequent Convention (1951) makes the minimum wage principle applicable to all agricultural workers.

Conditions of Work

The covenant on economic, social and cultural rights provides for 'the continuous improvement of living conditions'. Its achievement implies a 'dynamic' process whereby the conditions of work and life improve in accordance with overall development, impact of technological and scientific progress and above all the rising aspirations and expectations of the working classes. Thus the right for continuous improvement of conditions of work involves objective as well as subjective elements; the objective elements are relatively easy to account and provide for while the subjective elements can be dealt with in a process of negotiation, bargaining and arbitration.

Numerous ILO Conventions and Recommendations provide for hours of work, right to rest, occupational safety and health, prevention of atmospheric pollution and excessive noise. In spirit with the principle of continuous improvement, hours of work are tackled from the point of view of their limitation and progressive reduction. Similarly the right to rest refers to weekly rest and annual holidays with pay. New technologies are bringing more hazards to the work, therefore the machine, method and environment should adapt to the worker. Of recent origin in this respect are the welfare and housing facilities for the worker which include suitable feeding, rest and transportation to and from work.

Constraints to Effective Realisation of Human Rights

It is well recognised that the various ILO Conventions and Recommendations are designed in order to meet the global needs. Hence every country would need to adopt these in view of its own given circumstances. Therefore the Conventions and Recommendations are, in general, a statement of principle expressing the conscience of the world community on a definite issue. However, their acceptance and realisation is limited to the extent that

a country is willing to adopt and implement. For example, there are several countries where special restrictions imposed by law constitute an obstacle to the free exercise of the right to organise. In some other countries and situations, there may be no legal restrictions as such but the influential elite may obstruct the free exercise of the right to organise. As a matter of fact, the restrictions are encountered in cases where civil liberties in general sense are limited, e.g., the freedom of assembly, thought and expression; the freedom from arbitrary arrest, imprisonment or the right to a fair and impartial trial with a presumption of innocence until guilt is proved.

It may also be observed that in many instances the law of the land is not fully respected and the bureaucracy is unable to implement the law in view of the socio-economic and political realities. This is for example, true in respect of forced labour which denies an individual the right of freely chosen employment. In order to allow the free exercise of this right, all forms of slavery, servitude and exploitation will have to be eliminated. Compulsory-, free- or underpaid-labour is imposed, in many countries, by the levels on workers who are victims of chronic indebtedness. Thousands of farm workers still live under tenurial systems resembling conditions of serfdom. Many agricultural workers and their family members are required to render services free of charge. This may be due to the ignorance of farm workers, the strength of custom and tradition, the inaccessibility of the areas or the limitations of the bureaucracy.

Also, equal opportunity and equality of treatment are many times not fully respected. Women are discriminated in many ways. In many occupations, a woman when marrying is disqualified; double taxation is levied on the incomes of married couples and restrictions are imposed on advancement. Many a time, it is difficult to expose the discrimination; particularly when it takes the guise of special 'protection'. At other occasions, there may be in-built constraints to make use of the opportunities. This is generally true of the low income and disadvantaged groups who are as large as 500-600 million people in Asia; about 76% of such global population.

Rural Workers Organisations and their role in securing Human Rights

Human rights as enunciated in the United Nations Declarations and Conventions have been further strengthened by the ILO Conventions and Recommendations by elaboration and making them more specific. However, in the final analysis these rights can only be enjoyed if and when the individual is able to attain protection, support or advantage available to him under human rights. It has been indicated earlier that the application of rights is hindered by numerous social and economic forces. In some cases, there is a deliberate resistance to the attainment of human rights because vested interests are at stake. At others, illiteracy, low educational levels, poverty, ignorance and fear may constitute serious handicaps for a large section of rural population in securing human rights for themselves.

The process of impoverishment is certainly a major factor for the inability of the large masses to enjoy human rights. This process has its roots in the asset and resource structure in a country, policies and procedures for allocation of scarce resources, local and higher level institutions for participation of the people at large, and development of human resources. In particular, it is the inequitable distribution of ownership and use rights of productive assets like land, water, fishing boats, animals, production equipment and tools. This process of marginalisation and increasing inequality is further aided by non-egalitarian institutions and absence of technical know-how among the rural poor.

The Director-General of the International Labour Organisation, while considering the impediments to the attainment of human rights, points out to the role of associations of occupational groups as under :

“If they are to be able to defend themselves when they consider they have been wronged and to advance their interests when they consider they are being neglected, human beings must, individually or collectively enjoy a minimum degree of protection against arbitrary acts and have the possibility of making their voice heard. Freedom of Association . . . is such basic means of protecting the collective interests of occupational groups.”¹

1. The ILO and Human Rights ; Report presented by the ILO to the International Conference on Human Rights, Geneva; 1968, p. 104.

It may be pointed out in this context that a number of rights mentioned earlier as minimum wages, social security, termination of employment without valid reason, etc., can be and have been best preserved through collective action.

Collective action through organisations of rural workers is much more needed to promote a process of rural development by which the low income groups are enabled to participate in the decision-making process and share growth equitably. In other words viable rural workers organisations arrest the process of marginalisation and undue income inequalities. The means to this end is the ILO Convention 141 and Recommendation 149 concerning organisations of Rural Workers and their Role of Economic and Social Development.

Rural workers are defined as those engaged in agriculture, handicrafts or related occupations either as wage earners (landless) or as self-employed such as tenants, share croppers or small owner occupier. These are the major categories of rural poor who are unable to protect their rights and need organisations in order to secure rights for themselves. According to Article 4 of Convention 141, "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 organisations of rural workers as an effective means of ensuring the participation of rural workers . . . in economic and social development and in the benefits resulting therefrom".

Participation, as such, is not defined either in the Convention or Recommendation. However the inter-agency working group on Programme Harmonisation established by ACC Task Force on Rural Development regarded participation as "the collective effort by the people concerned in an organised framework to pool their efforts and whatever other resources they decide to pool together, to attain objectives they set for themselves . . . participation is viewed as an active process in which the participants take initiatives and over which they can exert effective control."²

2. Amit Bhaduri and Md. Anisur Rahman (ed.) *Studies in Rural Participation*, Oxford and IBH Publishing Co., New Delhi, 1982, p. vi.

Experience has shown that a number of stages are involved in promoting the participatory development; namely

- social analysis by the group/organisation;
- identification and development of their own organisation;
- collective action for social and economic activities and also pressure group activities to realise the collective/individual rights;
- review of their own action by the group/organisation; and
- replication by stages.

Such a course of development is shaped by the political "space" available and the urgency of the situation. However, outside intervention seems to be called for in order to provide a catalytical support to the development of the organisation. This support may come from various organisations, governmental and non-governmental. However an outside organisation should not promote a relationship of dependency which would limit the independence and growth of the local or indigeneous organisation of the rural workers.

The role of a rural workers' organisation is more precisely spelled out in Recommendation 149. It provides for representation of rural workers in formulation, implementation and evaluation of rural development programmes and at all stages and levels of national planning protection and furtherance of interest of rural workers through negotiations and consultation; active involvement of rural workers in the implementation of programmes for production, storage, processing, transport and marketing as well as agrarian reform and land settlements. Rural workers' organisations can also play an important role in public works programme (implementation and maintenance). Also services like credit, supply, marketing, transport and appropriate technologies should be made accessible to rural workers through their organisations. Rural workers' organisation makes it thus possible to obtain for its members the right to economic and social security, occupational safety and health, improved conditions of work and life, basic social services as housing, health and recreation. The human dignity is, as a matter of fact,

attained through participation, which in the final analysis is practicable of promoting and developing the self-reliant and self-help organisations. Hence human rights can be best ensured only when rural development and rural workers' organisations are able to grow in an organic process in which the people at large take initiatives, formulate programmes and exert effective control. In other words, human rights are secured by the people themselves through sensitisation of their rights and obligations as well as development with growth and equitable sharing.

COMMITTEE IV — WOMEN'S ROLE IN RURAL DEVELOPMENT

WOMEN'S ROLE IN RURAL DEVELOPMENT IN PAKISTAN

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In the context of human rights, women are a disadvantaged group. This is true of women in urban areas and even more so of women in rural areas.

Tradition, practices, laws, misinterpretation of religious concepts, economic status and policies, social norms, illiteracy and lack of skills, lack of awareness, complacent attitudes of women, segregation and the accepted so-called superiority of males over females, the subservient role of the wife and daughter, bearing innumerable children coupled with health hazards and malnutrition, all combine to give woman an inferior and disadvantaged status compared to their male counterparts. Often women are not accepted or treated as full human beings.

Today we are discussing the role of this exploited, neglected and subservient section of the population in the context of development. It is this section of the population which labours from morning to night, especially in the rural areas, often without being taken account of in the development projects and plans. Because of this failure to integrate women in the development process, and blatant denial of their rights as human beings in many regions of the country, the need for establishing a Women's Division was pressed upon the Government and a special Division established.

Education and Training

Literacy in Pakistan is low, and lower among women than men. The lowest figures of literate women are those of women in rural areas. A Pakistan study by the National Institute of Psychology on attitudes of the rural population towards female education found that the rural population does not educate girls because they believe there is no financial benefit, it is not custo-

mary to do so, and there is a lack of proper education facilities. Significantly poverty was mentioned by only five per cent of the respondents.

Another survey indicates that most of the girls do not have any education goals and 70% did not have any education plans.

The Media

If women are to be educated and trained in rural areas, there must be an attitudinal change among the young girls and the rural population. The radio/transistor reaches practically every village in Pakistan. This must project consistently the usefulness of educating girls. It is claimed that 88% of the population and 62% of the area of Pakistan is covered by the Radio. About 7 per cent of the broadcasting time is allocated to labour, children and women (combined). The Radio (which is state-owned) must support a positive role for women through their education, training and participation in development. Teams of village-workers must tour villages and propagate the benefits of education.

Education Facilities

In Pakistan the new education policy expects to have every girl in school by 1987. Lack of education facilities is rampant. In cities every school has more applicants than they can accommodate. In rural areas remote from schools girls are often not sent to school. Moreover the recent policy of segregation of girl students will make it more difficult to find schools for girls within a reasonable distance of their village. Polytechnics for women are a crying need.

Women Workers

The labour force participation rate among the female population is very low, according to official statistics. This is due to low reporting of female participation in the labour force, women working in family fields as unpaid labour, seasonal agricultural work done by women especially during rice and cotton harvest, attending live-stock at home, and numerous other chores handled by women in the field and homes which is not quantified in money terms.

A major burden of work borne by women is carrying water, piped water or community taps within easy reach can lighten this work-load and women can find more time and energy for other types of work.

Too many children

The population of Pakistan today stands at over 85 million. Labour force participation is estimated at 30%, showing a high dependency rate. Population Planning Programmes have been a disillusionment. There has been a shift to a current Population Welfare Plan (1981-84) projected as relying heavily on community participation and involvement of local leadership to make it more responsive to local needs and enhance acceptability. The results are still to be seen. In the context of rural women, it has to be accepted that women bearing a large number of children suffer from health hazards, especially as proper nutrition and health care is not available. Visiting villages one finds the women are so occupied with children, of ten one at her breast if she is not pregnant, and a number of little ones trailing her, that it becomes difficult to infuse new ideas and ambitions for a better status. The preoccupation of women in bearing and rearing innumerable children renders her immobile to change for development. Besides the girl child is often involved in caring for the siblings and denied education and training. She grows up with marriage as her only goal, with little awareness of her potentialities for personal development and her human rights for better living conditions.

Legal Rights

The family is the main domain of a women's life. Yet, it is in the family that women suffer discrimination and subjugation. The husband can divorce his wife without any reason. All he is required to do is to serve a notice to the Chairman of the Union Council/Panchayat of his having pronounced Talaq to his wife. If no reconciliation takes place within 90 days the divorce becomes effective. For the woman to seek divorce she has to move a family Court and prove cause. Islam recognises the right of Khula by the wife, yet at present this is not accepted on the same footing as talaq by the husband, and even for Khula a wife has to move the

Family Court. Court appearances pose a number of difficulties for rural women. Dissolution of Marriage by Talaq by the husband or at the instance of the wife are low. Marriages usually last a life-time. Polygamy though restricted by law is allowable with necessary permission from the Chairman of Panchayat/Union Committee. Though it is the wife who carries the child in her womb for nine months and gives him suck, it is the father who is the legal and *de facto* guardian of the child. In dissolution of marriage, there is the natural struggle for the custody of the children. Under Muslims Sunni Law the wife has preferential rights to the custody of her daughters till they attain puberty and sons till 7 years of age, which she loses under certain circumstances. The court can award custody of the children to the mother in the interest of the child even beyond the specified ages under Muslim Law.

It is the man of the family, husband/father who is legally responsible for the maintenance of his wife and children. The woman though she bears no such legal liability, shares in this by her unsung, unpaid labour in the home and in the fields.

Legally a woman is free to own property and deal with it in her own rights. She can also pursue any legal profession or calling. In practice it is the husband or father who takes care of her property, and she can only work outside the home with the active co-operation of her father/husband.

A woman is entitled to inherit, though only half the portion allocated for her brother/husband. In actual fact she is often deprived of this Islamic right and is too docile and unaware to stand up for it. One advantage of ceilings on land imposed by the Government was that many families transferred lands in the names of their wives, daughters and sisters, who become owners thereof. On the other hand on the redistribution of land women did not receive any benefits.

Local Development

There is currently in Pakistan an attempt to involve local participation in the elections at local levels to Union Councils and Panchayat. A special seat has been reserved for women at the grassroots level of local councils and at the next highest level. These women members at the local council/panchayat level are

lected by the members of the council/panchayat who are all male, except for the few women who have been elected at the general polling. This system is in its initial stages and the effect on the female population especially on the rural women will have to be observed and studied. Initially, in many of the rural areas few women were willing to come forward as candidates for election. This had to be coaxed. Many of the women's seats were filled without contest and some seats could not be filled as there were no nominations. Those who came forward did not attend the meetings and activities except those exclusively involving women. In cities and large towns there is more enthusiasm and seats are contested by women. There are so many aspects to a women's life and so many difficulties and problems facing her that it is not possible to set them all down here. This is just a cursory glance at her situation.

Conclusions

There is a need to raise up the majority of women-folk from the lethargy they have fallen into. A desire for self-improvement must be kindled. Their self-esteem and self-confidence raised. Their skills must be developed and their education given priority. Their right to choose how many children they wish to have must be awakened. Attitudes to woman's worth, her status, her role and her rights must be changed to positive thinking. Her economic independence must become a fact of life, and her exploitation as an object of sex and bearer of children must be put to an end. All this is necessary for her to assert her basic human rights as a full human being.

RURAL WOMEN IN DEVELOPMENT IN NEPAL

Bina Pradhan

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The theme of the Seminar is Rural Development and Human Rights — the right of the rural poors to participate in the Development process and to have a share in the fruits of development.

When we are talking about the rural poor and the small farmers women who constitute half the rural population are also included and are the poorest of the poor and smallest of the small.

Keeping in view of the seminar theme I shall present very briefly the relevant findings of the study I recently completed for the Status of Women in Nepal on the Newar Women of Bulu — the extent of women's participation and contribution in the rural economy, their decision-making role and their control over these sources.

The study show that the rural economy of Nepal is a subsistence agricultural economy where household is a unit of production. The goods and services produced by the farm family is consumed by it. Even a brief look at the date documents the fact that women are crucial to the well being and often even the survival of the farm family.

The time allocation data reveals that women's daily work burden is 9.34 hrs as compared to 6.21 hrs for males. If we take the conventional "economic activity" used by the national census we find that women's input is 2.42 hrs per day or little more than half of the male input of 4.47 hrs per day. If time spent in what I have defined as "new economic activities" or "expanded economic activities" producing essential goods such as water fetching, fuel, shelter, food processing, etc., is included women's daily time input is 86% of the male input into the combined conventional and expanded economic activities. Women's major economic contribution is made in the area of "expanded economic activities". Women's input is more than 3 times that of men with maximum time devoted to fuel collection and food processing. When

"domestic work is included the over all work burden is 9.34 hrs which is 50% higher than men's.

2. In the "Domestic" activities women are responsible for more than $\frac{3}{4}$ th of time input. It is not surprising the women put in so much of time in the domestic activities. After all house work is traditionally viewed as female task. Nor is it particularly startling to find that women's input account for more than 50% of the time spent in "expanded economic activities". What is significant what is the fact that women do all in addition to contributing half the male time input to "conventional economic activities".

3. Children in the 10-14 and 5-9 years age group contribute considerably to the household in both productive and domestic work, particularly the girls between the age groups of 10-14 years spend half the day (7.31). Looking at their productive activities all children spend a lot of time on animal husbandry. Girls spend 3.71 hrs and boys 1.19 hrs. Thus the economic value of children particularly the girls are very high. There is no substitute for their labour.

4. Nepalese women contribute not only more time but also generate equal income for the total household economy. When only outside visible income from wages, salaries or trading profits is considered men contribute 79% while women contribute 21%. But outside income earnings accounted for only about 19% of the total income of the household. The remaining 81% of the household income comes from home production. Of this women contributed 43.4% while male contribute 51% and children contribute 6%.

Women's contribution to income from animal husbandry, manufacturing and food processing is much greater than that of men. In manufacturing alone women's contribution is $4\frac{1}{2}$ times greater. Women are responsible for 78% of income from food processing and 100% of the food preservation income.

5. Women's role and status is reflected not only in their participation in various activities and contribution to household income but also in the degree to which they make decisions about the management of household resources.

Regarding the labour allocations and arrangement males and females take equal responsibility. Quantitative data as well as observation show that women, as well as men, have control of their own labour. In 121 cases of labour arrangements women made 38% of the decisions, men 36.4% and remaining (25.6%) were joint decisions.

In agriculture although the cropping pattern is followed to tradition women made a major say whether or not to use improved varieties of seed. Seventy per cent of the decisions on seed selection are made by women.

Women are responsible for making almost all decisions on seed selection (93%). Selection is one of the very important processes in agricultural operation which determine the output of the following year.

Vegetable cultivation is completely under the control of women — right from the type of vegetables to be cultivated to marketing them.

Women share decisions about quantity, type and application of home made manures, which are mainly prepared by them. While decision regarding use and application of chemical fertilizers are made mostly by men. This is indicative that there is a lack of government sensitivity and failure of government to include social behaviour patterns in development planning.

Major domestic decisions such as buying or selling land, investment expenditure, borrowing and the disposal of household resources such as grains, and the undertaking of entrepreneurial ventures are made by males (65% by males, 24% by females and 10% jointly). Even when the men make these decisions women are invariably consulted. Women in fact generally keep a low profile and not reveal their influence directly. They operate under the shield of what appear to be male dominance.

6. It is often said that women are not aware of the existing conditions — political and legal. But the study reveal that women participate minimally in the public spheres of activities. They are rather apathetic to politics such as the panchayat. Women's possibility in out village politics contrasts strikingly with their awareness and participation, either directly or indirectly, in domes-

tic and community level politics. They show no interest in the female representative of the panchayat and most of them are unwilling to participate in the village panchayat.

Very few women are aware of the existence of the various women's institutions and organization. For them the panchayat government, the credit institutions, health services and agricultural extension are all increasingly important bureaucratic structures of development which are the part of the "outside" hence for many rural women these system and services are both socially and conceptually inaccessible and hence apathetic. But women are completely aware of those matters that concern them directly. Almost all women are well informed of the legal provisions in both customary law and the national code.

Despite women's great contribution to the economy women have not been taken sufficiently into account in the process of development. The question we are facing today is why is it that in spite of all the talks, seminars, policies and national and international allocation of financial resources for the rural development since the late 60's the fruits of development have not reached the targeted rural poor. In spite of the international year of the women, and the decade for women's development the women have not come into the "main stream" development. As I see it some of the reasons are as follows :

1. Women have little formal ownership of legal control over productive resources which is the base of power. The legislative measures have been enacted to guarantee equal treatment to all citizens irrespective of sex, caste, creed or religion. There have been many reformative measures taken by the government and non-government agencies but all of them have been more as cosmetics and lip services. In Nepal as well as in many of the developing countries there still exists differential wage rates for male and female. What is surprising is that even the International Agencies continue to support projects where such inequality exists. This differential wage rate has been a disincentive for the women to participate in the labour market.

The land reform acts have not accommodated women in the redistribution of land.

In many of the resettlement acts there is no provision for registration of distributed land in the name of women. For the land to be registered in her name she has to be a widow without a son. At least this is true in case of Nepal.

2. Women's role in the subsistence agriculture and the market economy, including their considerable decision-making responsibilities are not reflected in any of the development strategies for extension, training, credit, employment, etc., instead strategies are targeted almost exclusively towards men.

3. There are conceptual biases and mythical beliefs regarding the role of women which makes the problems of women invisible at the policy-making level, e.g., the concept of male "bread winner" and that women's income is a supplement conceals the role of women. Her contribution to the household income is not an option that the farm family can do without.

The concept that women are regarded as a "house-wife" excludes her from the social production system. The traditional definition of "economic activities" again mystifies the role of women and the contribution that she makes in the rural economy.

4. The lack of government sensitivity and its failure to include social behaviour patterns in development programmes have left out women from the development programmes. As a result many of such programmes have had negative impact on women.

5. There are built in biases in the bureaucratic structures which are not conducive to the integration of women in the system. Bureaucratic agencies are usually tradition oriented in their concepts about women and hence institutions or government agencies charged with designing development programmes and providing services have never actually reached women at grass roots. The same institutional framework and mechanism of delivering services to well off cannot be effective in reaching rural women anymore than the rural poor.

ROLE OF WOMEN IN RURAL DEVELOPMENT IN INDIA

Chandi Prasad Bhatt

Chipko Movement, Uttarkhand

The Constitution of India ensures equal status for both men and women. However, in the mountain tracts of India, most of the jobs related to agriculture and animal husbandry are looked after primarily by women. Thus viewed in this frame of reference women have a pivotal role to play in their day to day household affairs and in this way they establish intimate ties with the forests. Chronically in most of the issues concerning forests management women are never consulted. In this regard "Chipko Movement" has been significant as it brought this act of deprivation of women of their fundamental rights within the national focus. It is true to say that the Chipko Movement for the first time placed a question mark before the validity of this fundamental right as it is practised in our rural set up.

In our socio-economic set-up both men and women have been at par with each other as regards their respective functions in the society. In rural areas these trends are still visible. But in some places in the wake of emerging processes of development, industrialisation and invasion of urban influences, this equilibrium of the share of responsibility has been distorted and deserves adequate attention.

There exists a line of distinction between the functions performed by men and women respectively in our rural milieu. Such as in agriculture men will plough the fields whereas women who perform all other functions on fields are prohibited even to touch the plough. To fetch fuel wood from the forest was a task for men while women were responsible for grass and fodder. In a nutshell the distinction between functions to be performed by men and women based on their mutual understanding has been manifest and justified. In Uttarkhand, a name synonymous to the Chipko Movement, one can encounter numerous examples of the importance of women in the management and functioning of the household.

Most of the important decisions are taken by womenfolk who have the freedom to exercise their discretion. They decide the type of crops and vegetables to be grown, quantity of manure to be added in order to maintain fertility to soil and also regarding the type of animals to be domesticated. They also decide upon some crucial issues such as making adequate arrangements for fuel and fodder. The reason, which adds substantially to our understanding of the situation, is the out migration of men of the working age group which leaves the entire responsibility of taking decisions on women. Therefore, in the process of rural development, particularly in Uttarkhand, women became linked with various developmental activities.

In Uttarkhand agriculture, animal husbandry and their allied industries such as wool and fibre have been practised traditionally. Increasing population resulting in mounting pressure on already slender agricultural and grazing land has been aggravating, the economic conditions of villages. This subsequently is working as a push factor in compelling people in large numbers to move down to plains and big cities. Despite having severe impact on rural crafts and other productive occupations this leads to undue liabilities on urban infrastructure of big cities which eventually gives rise to emergency of slums and a process leading to pauperization.

In this context realization it is extremely important that a new definition to be given to our rural development programme which may be capable of giving it a definite orientation. According to this an essential pre-requisite to rural development should be to link traditional forms with new methods of science and technology so as to benefit traditional labour and skills of village industry. Moreover the rural development plans should response more faith in women and make provision to give them an upper hand.

Till now the meaning of rural development has been to link villages with urban centres through a network of roads and provide education which helps only in generating skills for white colour jobs. It is therefore of little relevance to the developmental planning in hills. One of the drawbacks of this developmental infrastructure has been that it has intensified the pace of exploration of resources, on one hand and on another deprived villages

of their productive population. In this way the existence of village has been reduced to the status of becoming a colony of big cities. These linkages between cities and villages have led to backwash effects in which cities are growing at the cost of their vast rural hinterland. The cities which draw heavily upon the resources of rural areas for their subsistence in response supply costly finished products to villages. Today students of these villages after completing their studies come to urban areas and join informal sector. In this way they engaged themselves in a fight against poverty in which they get bogged down. The display of scant respect towards vocation of their ancestors is thus a legacy of the new education system. In this way the development of transportation network in rural areas has proved to be a drain and not a feeder. If these trends are to be reverted then this thinking needs overhauling as an important pre-condition.

Participation of women in rural development can help us depart from this vicious circle and the pace of development process can be accelerated only when it seeks participation of the rural women.

Till now the entire developmental structure based on agriculture, and industrial progress has been depending on men. The extension training in agriculture, horticulture and animal husbandry has benefited only men. It, therefore, becomes more meaningful if such training is imparted in rural women who can adopt same agricultural innovations in their own agricultural practices.

In recent past when forests in the border lands of Uttarkhand were under destruction numerous attempts to draw attention of authorities made by local people, scientists and so on proved unsuccessful, it was only when rural women gave their reasons in protest against mass felling of trees that authorities realized the adverse situation that the depletion of forest might entail. An example of such awakening amongst hill women was recently seen in a village 'Dungri Paintoli' in Chamoli district of Uttar Pradesh. The proposal of U.P. Government was to clear a patch of forest comprising mainly of Oak and Rhododendron trees so that potato and apple could be grown over there. The suggestion was warmly received by the headman and twenty other men of

the village council representing population of four hundred persons. The women of the village came to learn about this act of betrayal only when about hundred and one men arrived at the site. They were only too shocked at this happening because this forest has been a principal source of fuelwood and fodder. With this transaction the livelihood of about four hundred people was at stake. Surprisingly only twenty men could sell their forest to the department concerned without seeking a prior consent of the villagers and consequently depriving villagers of their basic needs of fuel and fodder. At this happening women became virtually helpless as they did not know whom to approach and so in their desperate attempts to avert this danger they launched "Chipko Movement". In hills the women are always ready to come to grips with any situation that may arise and give a fine display of determination with which they can fight the odds. In this connection it is worthwhile to note that in rural development programmes women should be given their due share of responsibilities.

And this such programmes should not confine themselves to male domination. In order to achieve this it is important to organise rural women and establish a number of training centres for them.

In rural get up women must get their proper representation in village councils, van panchayats and other administrative and developmental organisations. It is only after ensuring a place for women in decision-making that we can seek their contribution in the overall rural development.

THE ROLE OF WOMEN IN RURAL DEVELOPMENT IN PAKISTAN

Dominic Mughal

Co-ordinator, Leadership training programme of CARITAS

Before I say something practical on how women are taking part in rural development, I would like to analyse the situation in which they live in.

Women's Situation

The women of rural areas are in the same situation as they were in fifty years back. The birth of a daughter is a very sad event in the family. The birth of a daughter reduces the honour of the father. In some places it is seen that the husband divorces his wife only because she has produced girls. If a boy is born there is great happiness in the family. They tell every body that God has blessed them with a son. However, if a girl is born they will not tell their neighbours. Girls are looked down upon. Therefore they grow an inferiority complex. In rural areas women are dishonoured very badly. Women have no say in decision-making. Man is all in all in every matter, in or outside of the house.

Government has given special attention to the rural areas. Many schools have been opened, so that people may get an education. However a majority of our people are not convinced of educating their children. It is very difficult for them to understand the benefits of education. They see more profit in feeding a calf than educating a child. They see that a calf will give them milk after sometime, but they do not see the long range effects of educating the child. Boys are busy in the fields helping their fathers while girls are sent to school. They go only up to fifth class. Parents are more worried about their marriage. They say that their daughters are a burden because of the dowry they have to give at the time of marriage. In order to save their honour the family has to give a decent dowry. This is why girls are considered to be a burden which they try to get rid of as soon as possible. Girls are married off at a very early age,

usually between the age of twelve to fourteen. This is because of the fear that the girl might be dishonoured after she reaches puberty. A girl dishonoured is dishonour for the whole family and community. A girl or woman is considered to be a symbol of honour which a man has to preserve. At the same time she is also treated like the shoes of a man, i.e., she has to do everything he tells her to do.

In such a situation where women have such a low status what can you expect from them? Can we say they have a big role in rural development? Can they work to change the present situation?

Women's Role

This is the overall situation of women in the rural areas. Now let us see what they are doing and can do to promote rural development. Here I would like to mention about those people with whom I am working. They are from those villages which were established by the Churches both Protestants and Catholics. These people are helped by the missionaries to reflect upon their situation and try to change their inhuman conditions. In these places women have played a very vital role in changing this situation. Many have received an education and now working either as teachers or nurses. A good number of them have gone to the middle east. Many houses are run on the income of these women. I have seen women sending money to their parents so that they may buy seeds and fertilizers.

Here lies a very big problem. When villagers come to the city they do not want to go back. This is largely due to the lack of facilities available in the rural areas. Though basically an agricultural country more emphasis is given to the urban centres. There seems to be a deterioration in the rural areas.

In rural areas we see that women are fully involved in development, though they are not counted in the workforce. Mr. M. Iqbal Chowdhry in his book "Pakistani Society" describes the role of women in rural development. He says, "Whenever we talk about rural development that usual preception refers to rough, tough and hard manly activities in the agriculture field. Women are seen in supporting rules doing some "light" work in

and outside the field. This is a misconception of the phenomenon of integrated rural development. Even agriculture, which is one aspect of total rural development, apart from being an economic enterprise, is also "a way of life". Statistically speaking, about one half of the total man power in rural areas comprises of women. There is no statistical or logical justification for ignoring fifty percent of the man-power altogether".

It is a fact that in the rural areas women are working side by side with the men, in spite of all their limitations. If men are ploughing the fields the women are taking care of the household. They also prepare fodder for the cattle. They pick cotton, cut wheat and do all possible jobs. They are equally involved with men in earning their livelihood. Women of the working class in the rural areas work in the fields to supplement their family income, this is sometimes done under most difficult physical conditions. This contribution definitely has an important impact on the gross national product. However, women's contribution is not even counted in the labour force or the man-power that positively contribute to the G.N.P.

Conclusion

Women can play a very vital role in changing the present situation in the rural areas. The formation of the child's personality is shaped by women. It is here that she plays a very important role, if the mother wants the child can be educated, and if she realizes that she is actively participating in contributing to the development of their home as well as their country. This realization will help build her confidence and thus she can also take part in the decision-making of daily life. Within our context women can only relate to women. Thus, what is needed are non-formal education programmes that enhance their dignity and help deepen their confidence of themselves as people. Through this they will also effect a change in their relationship with men. A change in relationship is needed so that women can be treated more fairly. Educating women in health and hygiene, and budgeting is also very much needed.

WOMEN AND RURAL DEVELOPMENT IN INDIA*

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The female population in India is nearly equal to the male population and this ratio is evenly distributed in rural areas. It can justly be said that the burden of rural development should equally be shared by men and women living in the rural areas.

What has deprived women of their incentive to work for village upliftment is the utter lack of security to their person and well being. Their contribution can be more if the law and order situation in the countryside improves. They can be equal partners if the climate for equality is created both within the home and outside. Female children are treated as a liability and Hindu society taxes their parents in the form of dowry. Inequality of sexes is the recurring theme of Mohammedan Law. Low payment for equal work is still the order of the day. A psychological condition has been artificially created that women must subserve men.

* Summary of the paper.

COMMITTEE IV — THE EFFECTS OF THE POPULATION
EXPLOSION ON DEVELOPMENT

**THE POPULATION EXPLOSION AND DEVELOPMENT:
SOME MYTHS, FALLACIES AND REMEDIES**

Sugata Dasgupta

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A spectre is haunting the rich and affluent people of the world today. It is the spectre of numbers. The contention is that the increasing population of the poor nations provides a threat to the welfare of the human race. For the unrestricted growth of population negates the gains of development. It eats up, for example, all the food that is provided by modern technology, puts a strain on the health services, creates congestion in housing, and is responsible, almost solely, for the increasing poverty of the Third World. If the size of the population could somehow be curtailed, poverty of the poor nations could then be brought under control. This, in short, is the burden of this logic.

Modern civilization has indeed procured for the developed sections of the world's population a new consumption basket. It is full of the good things of life, such as ice cream, milk, cars, TVs, air-conditioners and what not.

Yet this consumption basket is not available to all, but could be made so if, and only if, there were fewer people to demand a share of the total goods produced by society. The line of argument thus goes on and on . . . if people would only have fewer children, the size of the population of the starving should diminish, and if that happens would not the gains of development reach the surviving few more easily, and all poverty and unemployment be abolished?

The logic is crisp and looks almost like an axiom that if there were fewer mouths to feed, food would be less scarce. Treating the axiom as sacrosanct, a huge programme of birth control has been launched in the Third World that identifies the human pro-

pensity for progeny production as the number one enemy of the human race.

But axioms can be based on false premises, and social policies depending on wrong assumptions may well fail to deliver the goods. This is exactly what has happened in the Third World, all through these years when we have been engaged in a grim struggle to abolish poverty, misery and hunger. For it may well be that the boot is on the other foot, and that poverty and unemployment are not the results of overpopulation, but of the methods and goals of development.

Following this 'counter-logic' it could be argued that the food problem would not be solved if there were fewer mouths to feed and enough food to go round, because poverty and unemployment may go on increasing even if there was a zero or minus rate of growth of population. Similarly, it can be established that the correlation between the size of production and the size of population of a country has no bearing whatsoever on its poverty. Thus, if production, say, of a particular variety of consumable goods such as food or milk, increases, the goods may become scarcer still, and their actual consumption, by those who produce or need them, may even go down. It may then be evident that it is not the size of population, but the developmental goal we seek that is responsible for the unemployment and poverty of the Third World. What should, thus, cause alarm to all those who are concerned today with the growing expanse of poverty, is not the size of our population but the unrealistic goal of development that we seek to obtain.

What we are now saying is in fact that 'development' is itself creating poverty, and it is development and not the people that is eating up the surplus that we produce.

But how can it be so? It is so precisely because it is in the nature of development to consume resources and to create poverty. For what does development in the modern world mean?

It means a rise in prices and a rise in wages. Those whose wages rise in production to prices, or those who are not unemployed may not be hard hit by development. But their numbers are few in the Third World.

Most others, who have a stagnant income, or no income worth the name, thus become poorer by the very process of development which makes some people rich. As prices rise, the poor have to spend more of their earnings to buy the same goods. In the U.K., it is said that the poor spend 85% of their income on bare necessities and 15% on non-necessities, and the rich do exactly the opposite.

What is more, the prices of necessities, such as bread, tend to rise faster than those of non-necessities such as international air-travel, and make the poor poorer and more miserable than they had ever been. The real income of the poor thus falls continuously as more and more development takes place and prices are hiked. Even if the population of a country remains static and this process of development proceeds undaunted, prices will continue to rise and the poverty will tend to increase.

I

Posing the Dilemma

There is one more factor that we must understand in this connection. It is that development ultimately means opting for a new consumption basket. What a poor man, say a landless labourer in a village, consumes in everyday life, from morning to evening, i.e., the food he eats, the clothes he uses, the transport he requires, are all very different from that which a rich person from the developed sectors of the society consumes. As the former becomes developed he necessarily discards his old consumption basket in favour of a new one. The latter costs more. It costs nine times more resources, for example, to rear a child in Israel or in Malabar Hills at Bombay than in an Indian village.

What is true of child-rearing is also true of education, housing, food, drink and all other items of consumption. Each middle-class person in the U.S.A. consumes ten times more resources than the poor of that country do. The situation is worse in India.

Yet as more and more people demand the new consumption basket, the latter will become costlier still. For development calls for extra resources to produce more sophisticated products. Choosing quality in place of quantity, machines in place of men,

and productivity of a few in place of production by the masses, development would require more and more investment, and eat up all our surplus resources. Thus it is not only the nature of development, but the whole process of it, that leads to the pauperisation of the poor, and into the bargain converts that poverty into some form of grinding misery.

For even if the poor are spared the gains of development, they cannot be spared the pangs of growth. Those who spend 85% of their resources on necessities will have to spend more and more of it, say from 85% to 95% and from 95% to 115% and so on, as development gets into its stride. As a result, the number of the poor and the depth of their poverty will increase. This will happen even if the population does not grow or even if it decreases.

This is exactly what is now taking place in many advanced countries where development is having its final revenge on human-kind. In Australia, for example, the population is declining, prices are mounting whereas unemployment and poverty are increasing, and all this happens when Australia, one of the most developed countries of the world, is facing, along with many others, the phenomenon of absolute poverty not incomparable to the poverty of the Third World. It is losing about 85,000 jobs a year at the alter of what the "telecom" trade unions of Australia call the technological terrorism whose other name is development.

Poverty thus increases, even if population decreases and technological advancement and industrialisation proceed at break-neck speed. Australia is three times the size of Indian sub-continent and has a population of 14 million people.

Following the Australian experience, will not unemployment and poverty persist in India even if it cuts down its population to one-third of Australia's? How can one then argue that it is the population explosion that is responsible for the creation of poverty?

II

What, however, is the situation in India in terms of development and poverty? Is it very different from that of Australia? Phenomenal progress has taken place in the country since inde-

pendence. It has, for example, increased its food production by 60% in the last 14 years, whereas its population has increased only by 36% during this period. Life expectancy has likewise risen in the order of 40% on an average, between 1950 and 1975. This is a unique record, as never before in history has the life expectancy of a nation increased so much in so few years.

But yet does not staggering poverty continue to dog our footsteps? It does.

Gandhi had, for example, calculated in 1931 that the income of the poorest person in India was about 12 N.P. (or two annas). In the mid-sixties Lohia maintained that the same income had been reduced to 10 N.P., a 20% fall in terms of actual wages and a several hundred per cent fall in terms of real wages. Naturally, the quantum of starvation of the people, so affected, must have also gone up many times.

Increased production was indeed eaten up by the new consumption basket. As FAO puts it, the food problem exists all around, not because there are too many mouths to feed, but because of what some people are eating now. Since too many people are eating cakes, there is no bread left for the rest. Even if the streets of Calcutta are flooded with milk, it will not reach the poor, as the surplus will be used for other purposes. An excellent example to the point is provided by the 'operation flood' project where the average villager who contributes to the 'flood' does not have any milk to give to his children. How much damage does an operation do to the psyche and physique of a people whose milk production increases but whose consumption withers away?

One thing thus becomes emphatically clear in this context, that a programme of birth control provides no panacea for economic recovery. Any drastic reduction in numbers, especially of the poor, cannot, in any way, mitigate the poverty of the nation, or help to save its resources.

What can accomplish the task is a reduction in the number of the rich, developed, affluent sections of the population and the abandonment of the life of luxury and wealth that the new consumption basket promises. Any talk of a higher standard of living by cutting down the size of the population is a myth that one must carefully abjure.

History has no record to prove that any country in the world or any people anywhere have ever solved the problems of poverty by the device of birth control. The white, Anglo-Saxon protestants who rule the U.K., U.S.A., Australia and New Zealand, if not the rest of the world as well, have been able to solve the problems of over population, if that is a problem at all, not by cutting down their numbers but by international migration, and colonisation. This is also the method which has helped them to solve the problems of poverty. They have done so not by controlling childbirth at the crucial stage of their industrialisation but by diverting their surplus numbers to establish colonies abroad and to exploit the resources of other people whose numbers they have now started to dread. The population explosion at the time of industrialisation had thus come to them as a boon and not as a challenge.

III

Be that as it may. What, one may now ask, are we trying to say in this article? Is it our contention that we should give up the programmes of family welfare? Not at all. A programme of family development can be of great value for a number of reasons. It may, for example, establish the right of a couple, especially of the woman, to decide when to have a child and when not to have one, emphasising, all the while, the right of the woman to liberty, freedom and choice.

Yet what we are trying to say with regard to the population question is that the first prerequisite for the solution of any problem is surely to arrive at a correct definition of the problem itself. Any illusory feeling that one understands a riddle, when one does not really do so, may indeed produce remedies that may be worse than the disease. All endeavours to find a solution may then become a blindfold attempt that may only aggravate the problem.

This is exactly what happened with our approach to development and poverty. For we had thought, in the beginning of the fifties, that if development programmes were well implemented, poverty would automatically disappear. Tragically enough, this did not happen and after a programme of worldwide development, as we had known development to be, was meticulously imple-

mented poverty had increased *ad nauseam*.¹ 'Development' had thus in fact created poverty. It has now become evident, at last, that there were some crucial fallacies in our understanding of the concept. One of them was that we did not even know that we did not know what the problem with regard to development really was. What is true of development could also be true of family development. This article seeks to answer this question and to evolve a new concept of family development that may, by itself, help to determine the steps that one needs to follow if the programmes are to make headway.

IV

Seeking a Solution

Family development represents a unique experiment of contemporary society that aims at reshaping the demographic profile of humankind and seeks to act as a lever of relief and growth for those who are allowed to be born. It must also be understood that the birth control part of the programme represents an intervention in the natural process of progeny creation which has no parallel in history. Any effort at birth control or mutation of our population structure can, therefore, draw no guidelines from the past. In this area of work, the contemporary generation is thus entirely on its own, forlorn and desolate.

It is, however, not quite true to say that there has been no effort in the past to control the size of population in any country. There are several examples, on the other hand, of efforts made to cut down the size of a people in order to help those who survived to lead a more prosperous life: the forced exiles of whites from North Europe to the U.S.A. and Australia, and the alleged organisation of large-scale famines in Eastern Europe to ease the pressure on land produced by the increasing population. One, thus, has ample evidence to believe that some of these methods succeeded admirably in fulfilling the objectives for which they were employed. History, however, provides no testimony to the fact that the methods that we have now adopted to cut down the size of a population, such as birth control, have ever produced any appreciable result anywhere. They have, as far as we know,

¹ For a fuller treatment of the subject, see S. Dasgupta, *No Poverty Third World*, published 1979, Action for World Development, Brisbane.

not been able to secure any substantial reduction of population or of the work force in any country much less to offer any relief or prosperity to the people who have survived the process of progeny control.² There are, in fact, instances to the contrary to prove, if proof was needed, that even if numbers have been reduced by the adoption of artificial methods, poverty and not prosperity of the people has increased manifold.³

The time has come, therefore, when we should understand that any facile assumptions, peripherally supported by limited demographic data, and unlimited wails of a national elite seeking to get rid of the load that bothers it, will not help at all. The naughty child has to be told that it may not get the milk by merely crying for it. What is important, in this context, is to ask ourselves whether we really know how to define the problem that we wish to negotiate. If the answer to the question is not an emphatic 'yes' how could one determine the *modus operandi* required to control the problem?

This article seeks to analyse some of the issues that arise in this connection and to provide a few leads that may help to tailor a programme needed for the readjustment of our demographic pattern in years to come.

In analysing the problem and before any solution can be discovered, it is necessary to arrive at a precise definition of the task that one plans to undertake. This requires, in turn, arriving at some conceptual clarity with regard to the understanding of the problem. The questions that might help in this matter will have to be posed frankly and critically, bringing into sharp focus the several dimensions of the task. What should be the aim of the family development programme that we wish to adopt in decades to come is, thus, the crucial question that one needs to ask in this context. All others stem from it. One of them is, "do we wish to cut down the size of the population of the poorer

² The only programme of population control that has been effective so far is forced migration. That is why Galbraith has again pleaded for a transfer of population from South to North.

³ For a fuller treatment of the subject, see S. Dasgupta, *The New Concept of Development*, published 1980, Calcutta (The J.P. Institute of Social Change).

sections of a nation so that the increased wealth produced⁴ by it is more equitably distributed among the surviving few?" Alternatively, "do we aim at the reduction of the size of a population so that a few can enjoy a life of luxury and the others can feel slightly less miserable than they do now, so that they are freed from their day to day worries to invest all their energies to enrich the productive process intended to help only a few people to live in luxury?" If these are the two alternatives there could be a third as well, "that our aim is not to reduce the size of the poor by any artificial measures but to create a new society. The latter shall determine the size of its population by its own free will and in such a manner that its total resources are so distributed that no one, who is brought into the world, will suffer or die for lack of food".

Needless to say, the irresponsibility of a society that brings its progeny to earth without making adequate provision for their upkeep is severely challenged by this school of opinion.

V

The third alternative naturally puts emphasis on the welfare of the people rather than on cutting down their size by any crude, artificial device. Such a policy would consist, as we see it, of five essential elements. It has to produce, first of all, a perspective plan for each community, as also for the global society. Secondly, such a plan should take into consideration not only an assessment of the resources position of a nation, as all normal plans do, but also evolve a "population policy" for each community and area, as also for the total society of which the first two form a part. Thirdly, the plan should aim at a psychological transformation of the total community and change its values. The exercise must begin with the elite who must learn more than the others, to curtail their needs even before they cut the size of their families. They should, however, do so not for the improvement of their own standard of living, but for the enrichment of the standard of life of the poorer sections of the popu-

⁴ Any wealth, according to us, is produced by the non-rich, the workers and the poor. It is their numbers that the family development programme seeks to reduce in the name of increasing production by replacing hands with machines.

lation. Fourthly, the plan may lay down a ceiling on *per capita* consumption, so that every section of the population is assured that no one becomes too rich just because others are sacrificing their children at the altar of the god of progress. Any unfair expropriation of the total resources shall naturally be taboo in such a society.

The central goal of the new approach to family development will thus be non-violence, violence meaning — in the new context — exploitation; non-appropriation and abhorrence of power dominance, for control and for profit, will provide the main dictum of such a policy. Essentially non-elitist in mould, such a policy shall plead for an economy of limited growth. Seeking Antodaya as its aim, it shall concentrate on the growth of the poor, reject a 'leap' oriented economy and dub cut-throat competition for increasing standards of living as evil and exploitation of resources, animate or otherwise, as forces of violence and destruction.

The motivation for population control, under such a scheme of things shall be liberation. Liberation of the weak and the poor rather than elitism and exploitation will be its goal. Its aim will not be to dangle the carrot of wealth before the few that survive, but to create a society where all will share work, hunger and decision-making in equal measures. Birth of children is to be prevented, in the new context, only to prevent cruelty to them rather than for the frolic of a few who may dream of living in perpetual fun houses, if only there were no more people to demand a share of the total resources.

The major economic investments in such a society shall be on the poor, the family development programme assuming the shape of a moral, ideological and social input for the education of the rich. Non-exploitation of women by men, of children by parents and of the weak by the strong, would provide the real motivation for the population policy in the new society. The main objective of the economic process, in the new context, shall not be a rat race but contentment that leads to stable family relations, to equality of rights of women in every walk of life beginning from sexual relationships to the protection of the rights of the yet unborn.

The three definitions of family development and population policy place before us three different objectives. Each one of them, if adopted to the exclusion of others, would cast the society in a different mould and would require different sets of tools to reach their respective goals. It is against this backdrop that one may ask, now, which of the three positions are we going to adopt in years to come? A definitional and conceptual clarity, in this matter, will surely mean the adoption of one of the three alternatives as the objective of the programme. If that happens and the country opts for a basic definition of the situation, it will only then be possible to lay down a general as well as some specific goals and steps for its realisation. If the concept becomes clear it will only then become clear to us as to what is to be done in the years to come.

If the first two aims mentioned above are accepted and the third one is rejected, it is the contention of this author that the existing programmes of family development will be, as they have been in the past, mere eye-wash. Poverty will not be reduced by such measures and although a few rich will then become richer, the continuous impoverisation of those who will not gain from the process will lead to a clear-cut division of forces between the haves and the have-nots.⁵

Polarising the two and putting them into water-tight compartments will lead to violence at home and to loss of sovereignty abroad. As the work force in the vast rural sub-continent of ours, thus, gets alienated from the few elite monitors of the system, such development will perforce require immediate modernisation of the process of agricultural production. The latter will, in turn, lead⁶ to the enslavement of the rich, secured members of the elite community in the hands of those who will supply the wherewithall of modernisation from the North.

All in all, the total process will destroy peace and lead to violence. A concentric circle of "slaves, semi-slaves and full masters" will then emerge. The number of the latter will be few and will belong mostly to the North and that of the 'semi-

⁵ See "Towards a Policy for Family Planning", published in *Young India*, January, 1973.

⁶ For a fuller treatment of the subject, see S. Dasgupta, "A Third Theory of Economics", published in *Janata*, 1981, Tulloch Road, Bombay.

slaves' will be slightly more than those of the rest. Family development, in such a context, shall not only lead to violence but also to a total erosion of political sovereignty, cultural identity and economic autonomy.

If we, however, accept the third alternative as the goal, it will reverse the process. The new objective will lead to liberation and peace and to a society that will share in equal measures the portion that all citizens require of the total economic cake. Co-sharers in the process of decision-making, the people, as a whole, will thus naturally learn to cut their coats according to the cloth available, and ration births, if that is what the situation demands, without any coercion or propaganda. Population planning or birth control will, then, become a natural and moral law of the society where the rich and not the poor shall make sacrifices not for themselves but for others who cannot make ends meet. A number of steps will, however, be required to put the new policy of family development into operation. A few of these are mentioned below.

VI

The first, of course, is the building of a conceptual frame regarding what is to be done in order to enable people and their resources to adjust to each other. Concepts will thus get a priority over action, for an ounce of concept is equal to a ton of contraceptives.

The third definition must, however, have a total impact. It must spread both vertically and horizontally, globally and locally, and be shared in common both by the elite and by the masses. The dissemination of the idea will require the adoption of a new set of values such as of contentment in place of aspiration, of co-operation in place of competition, of sharing of poverty in place of amassing wealth, and of community neighbourliness in place of isolationism. If such value changes take place, the population planning programme will then grow into a programme of family development and of total social transformation.

Its emphasis would be on the preparation of a programme of non-formal education meant for all sections of the community, one that will enable the latter to accept the third alternative and to implement it. Secondly, the family development programme

should initiate a process of community organisation in the society, and help in introducing such structural changes as will turn the social pyramid upside down. It may then strike at the root of the process that produces relentless greed in a few rich requiring the poor to sacrifice their social network. Backed by a programme of value change and non-formal education, the new structure will bring the classes and the masses together and help the re-integrated community to initiate a new social policy. Depending on a two-fold programme of resource mobilisation and population planning, based on a sharing of values and goods, such a policy will provide the best guarantee for the solution of the problem of numbers. Arising out of the decisions of the micro-society, the policy will have a community sanction whose force will be both moral and social and of far greater impact than anything else.

The new programme will develop into a social movement. It will be based on the lifestyle of a 'poverty' society, where aspirations are curtailed and the pressures on resources are reduced to the minimum. Adjusting numbers to resources will be easier in such a society, where the aim will be not only to cut population but also the consumption pattern.

The population planning programme, under the new dispensation, should require much expertise in social planning, community organisation and social action.

Movement men and ideologists, replacing knifers and contraceptive sellers, will then have to take over the programme. The emphasis of the former will be on research in co-sharing through community planning and on the introduction of a network of experimental centres for the purpose. The third concept, heralding a package of organisational and value inputs, will give the classical programme of family development a revolutionary tilt and develop into a movement of the people and led by them.

Finally, it will be necessary for the poor to organise a global lobby to sell the third alternative to the rich of both the societies beginning with the 'filthy' rich of the Third World. The U.N.D.P. should act as an educational pressure group and not merely as a money bag. It should develop a new consumption norm that will take away from the rich their surplus resources for the

maintenance of the poor. It may also tailor a selective policy of migration from areas of congestion to sparsely populated continents as also of 'downscaling' of technology that could absorb the new migrants in the technological society.

A rational or optimum population policy, as Mumford put it, will then emerge catalysed by such global pressures. It will restore the much needed equilibrium to the world population and its ultimate goal will be to end the artificial policies of population control that seek today to banish all the weak from the global habitat. The third alternative will, in short, place the rich and the poor on a par, as far as resource consumption and population control are concerned. It will evolve a policy of parity and equity that will enable an effective policy of population management to be implemented.

POPULATION CONTROL AND RURAL DEVELOPMENT*

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An examination of the implications of population growth for rural development is eminently suitable in the context of the right to develop. This is because the right to develop has as its objective the well-being of a people such that the individuals are enabled to realise their full potential. On the other hand, people through their demographic behaviour might obstruct or facilitate the process of development and make the realisation of the right to develop more difficult or easy. From the point of view of the realisation of the right to develop, it is, therefore, important that the demographic behaviour of the people is harmonised with the requirements of rapid development.

The case for the population control measures rests on the direct and indirect effects that population growth has on economic development. We shall examine those effects in the context of rural sector and also bring out aspects of human rights interest.

1. High fertility rate accompanied with rapidly declining mortality rate which accounts for the phenomenon of population explosion, raises the proportion of children in the population and, therefore, adversely affects the worker-dependent ratio. In economies characterised by low household incomes in general, this exposes the children to neglect, oppression and exploitation manifest in less developed countries.

2. As the fertility declines at a slower pace in rural areas than in urban areas, the population in rural areas has a tendency to grow much faster than in urban areas. With opportunities of work outside agriculture limited in rural areas, a large scale migration occurs from rural to urban areas. Often, the migrants are from among the better educated and more efficient elements of the rural population. Again, the migration is often financed by borrowings from the rich and the dominant sections of the rural population. These two facts put together lead to a situation

* Extracts from the paper presented.

which perpetuates the age-old practice of economic and social subjugation of the large masses by the few.

3. With increasing pressure on land, both because of population growth and the start of the process of competitive industrialisation leading to collapse of traditional industries and crafts, land values start rising. These land values start rising also because of a shift in the price relativities between agricultural and industrial products in favour of the former. As a result of all these processes, there takes place a movement in favour of resumption of land rights by the land owners who had earlier leased out their land. The desire for resumption is also strengthened by socially oriented land reform legislation. All these elements in a complex situation go to swell the ranks of landless agricultural labourers and adversely affect the possibilities of a rise in real wages with improvements in productivity. Not only do the real wages fail to rise, but it becomes difficult to get minimum wage legislation implemented. Unemployment and poverty become the characteristic feature of the rural economy.

4. The economic inequities so strengthened buttress the social injustices to which the vast masses of population in rural sector have been subjected since centuries.

5. The organisation of the landless labourers are difficult to sustain in such a climate. When they start making their impact felt, they are soon broken up. The alternative is to provide employment opportunities outside agriculture to as large a number as possible. Since the Fourth Five-Year Plan, the Government in India has awakened to its desirability and has launched special employment schemes now covered under Integrated Rural Development and National Rural Employment Programmes. If these programmes become viable, then it would be possible to reduce pressure on land simultaneously with improvements in the bargaining power of the landless agricultural labour.

Conclusion

As seen above, there are a number of channels through which population size and its rate of growth enters significantly to affect rural development adversely. But it does not exert independent influence. Its adverse effects are discernible in the context of the manner in which the industrialisation programme

and social purpose legislation is planned and implemented, without any attempt at correcting inequalities of asset ownership inherited from the past, thereby giving the motivations and attitudes connected with these inequities a free play to defeat its objectives. Needed, therefore, is a comprehensive policy framework which could on the one hand bring down the fertility rate in as short a time as possible and, on the other hand, by altering asset distribution generate motives consistent with the objectives of growth with equity. This would also help reduce social tensions which are fast becoming a characteristic feature of rural life.

COMMITTEE V — DISADVANTAGED MINORITIES
AND SOCIAL GROUPS

DISADVANTAGED MINORITIES AND SOCIAL
GROUPS IN INDIA

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The South Asian countries, in spite of facing problems such as poverty, economic backwardness, illiteracy and hunger, are striving to pursue a path of development. But at the same time they are being confronted by some of the most appalling problems haunting their underprivileged minorities. It is therefore out of sheer concern that efforts are being made to provide people of the minority groups with the bare minimum necessities for existence on one hand and to begin the task of emancipating them from segregation based on traditional values on the other. This is a difficult task because at present the benefits of economic development are confined to a few and instead of anticipated success there is despair as new problems emerge.

Origin of the Minorities

In these countries although the minorities are divided into various classes and groups, their origin is believed to have been from two main sources. The first is based on the "Varna Model" which was conceived by the architects of the Hindu society. This scheme was based on the division of labour and therefore each caste was given a specific job to perform. This system has been prevalent over some thousands of years. On the basis of the Varna system, the underprivileged minority we can identify is the Harijans who have been victims of oppression from the higher castes.

The other main group of minorities consists of the tribals. Their habitat is confined to forested tracts along the peripheries of the major river valleys. Most of them are still living in the primitive stage of their social development. Living in blind alleys they are least affected by the impulses of modern deve-

lopment activities. But in some cases where the tribals have been exposed to modern development, the result has been their alienation. This is because most of these activities are not in consonance with their requirements. Also, the definition of development as professed by modern administrations fails to envisage tribal customs and values in a scientific perspective. In some cases, tribals under political compulsion have been compelled to move from one region to another or one state to another. Thus, they could not assimilate themselves in their new milieu and were labelled as displaced minorities. The origin of these minority groups can therefore be attributed to situations caused by shortcomings in the administrative machinery.

Today most of the flaws of the social stratification based on the Varna Model have started becoming visible. In India one can discern about four dozen communities which are subject to various social evils and exploitation. In spite of this, there is a lack of seriousness among social thinkers in this direction and therefore these issues have only drawn a passing nod of recognition. The people who fall within the gamut of Scheduled Castes (SC) and Scheduled Tribes (ST) are in fact bestowed with fine skills which are often projected through their handicrafts and folklore. Carpentry, carving, music and dance are some of the examples of their traditional skills.

In the economically backward woodlands and mountainous regions of Uttar Pradesh these groups exercise their mastery over many of the art forms. A blacksmith will make agricultural implements of iron, an 'Auji' will produce musical instruments, and music and dance will be performed by the 'Badis' only. Household items are made from Ringal procured from the forests by Rooria harijans. Somewhat different from them are the Sunars who make ornaments of gold and silver, and the makers of utensils, who are known as Tamota. In this manner, the Varna system was based on the division of labour in which each person specialised in producing particular types of goods and services. This kind of social order was sustained for long in a symbiotic framework. There is no evidence of any conflict arising from it and the mutual interdependence was geared towards benefiting society at large.

Later, some religious fanatics distorted this system by establishing their hegemony. Following this there emerged a negative point of view which started discarding the importance of the artisan class. Thus, keeping the society divided and getting the means to attain their personal ends became the ultimate motive of these people. This new and powerful class started suppressing the artisan class by social and economic exploitation. Being less numerous and more poorly organised, the artisan class became open to the coercive tendencies of the well-organised privileged class.

This sectarian tendency not only led to economic exploitation of the low caste people, eventually depriving them of their land and property, but also gave an upper hand to the higher castes to monopolise the value system. It was the higher castes who had the exclusive right to take part in certain social activities or ritual. To consolidate their stronghold, they severely punished anybody found infringing these rights.

Accumulating strength and power became a social norm and exploitation of minority groups became a part of the tradition. All these factors led to the sharp decline of craftsmanship and subsequently, due to social and economic backwardness, the weaker section became more dependent and ultimately the slaves of the well-knit stronger section.

These social institutions crippled the minority communities to such an extent that as a result the latter lost their identity. In a way, they are living under inhuman conditions and at times living like slaves of the organised upper class. Also they could become bonded for indefinite periods of time and could be enslaved for generations.

The tribals have a somewhat different problem. In the beginning of the 19th century, forests were free from all sorts of state interventions. The people living in these areas could draw upon their resources to meet their requirements and could live in a state of self-sufficiency. However, growing population pressure and the need felt by the state to increase its revenues mounted more pressure on the forests. As a result of this, the denizens of the forests started experiencing shortages in the supply of their means of livelihood. Their resource base became limited and they started losing their traditional bonds with nature.

The authorities who took over the forestry affairs did not provide the people dependent upon forests with any suitable alternative way in which they could live. As a result of this they continue to face problems of seeking a livelihood.

A quest for an alternative, supported by some political reasons, has led to the movement of people from one region to another. This, linked with the problems of rehabilitation has given rise to this minority as a separate group. This society because of its adherence to its values and traditions which do not conform to those of the major groups, is able to retain its own identity.

Efforts to Strengthen these Communities

As part and parcel of a society in which there are wealthy and privileged classes, the persistence of minorities has become a big challenge for thinkers and social reformers. The idea of equal opportunities for underprivileged minorities unfolded itself a century ago when their inhuman treatment and exploitation reached a zenith. Several decades ago, social reformers made many efforts to eradicate social inequality. The list of such reformers and religious leaders is a formidable one but the idea which came ultimately to the fore was that the real obstacle in this regard was economic backwardness. To remove it some special programmes were evolved.

Most of these minorities are landless. For long periods of time they are compelled to work as agricultural labourers. According to estimates there are about 16 crore (million) SC and ST in India. Therefore, a major thrust in these programmes was to provide them with the right to own land. The ownership of land is still an important factor in determining the status of a person in the society in which he lives. Thus it was thought necessary to strengthen weaker sections by giving them some agricultural land as the first priority. But due to the lack of will and determination amongst the authorities and the administration, such programmes did not yield expected results. The serious lack of initiative and enthusiasm to wipe out sectarian feelings among the people became a major cause of strain and bitterness at the time of the allocation of land to the underprivileged minorities.

Such people who were given land had to face and resist a hostile environment.

The impression left behind by the responsible officials after the distribution of land grants presented a very disturbing picture. It is unfortunately true that both the ruling and administrative elites belong to the class which has been responsible for the poverty amongst minorities. Hence, they did not display their keenness in the distribution of land to weaker sections. This can be substantiated by the fact that in spite of a ceiling being imposed on big land holders, there has been no reduction in the number of big landlords. Land which was infertile and lying fallow was given to the landless. As a result the output was not satisfactory in spite of the hard labour and capital invested.

Other land distributed was either community land of the village or part of the grazing lands. This was followed by an inevitable furore within the village community. As a result of the anger it aroused, people who had received land grants were often dragged into litigation in which the money spent was more than the money with which they could have bought a piece of fertile land. The system of land grants was highly arbitrary. In some cases people got the documents but not actual possession of the land, or vice versa.

Generating employment by encouraging traditional handicrafts has also drawn the attention of the government, but here also the results have not been satisfactory. There was no fundamental difference in the way in which economic and other help was extended to these people.

Due to their small numbers and the evils of nepotism and favouritism, the minorities were unable to avail themselves in full measure of the jobs and places in educational institutions reserved for them.

The reason behind all these schemes not becoming successful is the lack of foresight and integrity among those at the helm of affairs. It is worth noticing that such communities have remained an integral part of our rural set up.

Commercialisation of forests in order to derive more revenue from them has been a constant effort of the government. This has led to an increase in the hold of the government on forests. In

the name of scientific management the government kept on controlling the forests on one hand and depriving rural folks of their rights to use forest resources on the other. This trend has been evident since the middle of the 19th century and has further intensified in recent years. Just for show some areas of the forest have been left with villagers, to be used under the supervision of the Van-Panchayat. The management of these areas is not looked after independently by the villagers, as the official orders are always binding. It is evident that there is an attempt to limit the opportunities of the weaker sections.

This trend is on the increase and yet no alternative means of seeking a livelihood has been given to the people. The forest is the most important component and regulator of the economy. Rural and tribal populations have for generations depended upon the forests to fulfil their basic needs of food and clothing. Also innumerable types of fruits, medicinal plants, herbs and other daily necessities could be collected from the forests, as well as raw material for household industry. Thus the forests used to fulfil most of their needs. But due to commercialisation of forestry the long established bonds between forests and people broke. This also resulted in serious repercussions in the environment.

The thought which goes into planning for underprivileged minorities is somehow devoid of any solution to their problems. In such schemes there has been no participation of the people for whom they are meant. Instead, schemes are formulated which do not comply with their traditions and expectations so that there is no assimilation of the people in them. Such superficial schemes are superfluous. This type of planning process creates only bitterness among minorities and creates a gulf between the land owner and the labourer. These programmes of welfare planning give assistance in a similar fashion as does a benefactor to a beggar. Planning has not been in accordance with the desires of the people and their situation and could not restore their confidence. It may, therefore, be right to say that these schemes have, to a great extent, failed. This is one of the reasons that, in spite of the government's launching of welfare programme, there has been a rising tide of discontent amongst these minorities. This can also be attributed to the lack of integrity apparent during the implementation stage. In these circumstances, it is futile to think of minorities becoming

economically stronger and eventually merging into the social mainstream to get equality of justice and opportunities.

Some Suggestions

A general tendency of the state has been to keep people divided into groups and maintain its superiority. If society is not divided then different forces within it might unite and pose a direct threat to the authorities — a thing they can never accept. Such a tactic is common among the monarchies of yesteryear and the republics of today. Like a monarch, the ruling elites in democratic systems aspire to remain all-powerful and try to centralise power. Thus, it is difficult to say that political leaders really want to create a classless and cohesive society with the least number of differences. Assimilation of minorities into our social mainstream will require an extraordinary effort.

Planning should incorporate the values of the society and must entrust people with the responsibility of implementing various programmes. Therefore, a plan must be designed in accordance with the expectations of the people and it should be implemented by the people once they have been united. It should be borne in mind that any change in the traditional lifestyle of the people should be for the better. They should not be forced to adopt new practices which they may hesitate to accept. It would be in the interests of the minorities if their handicrafts were encouraged and given a scientific backing. For example, the blacksmith could be trained in improved ways of making iron tools in order to increase his output. But today's giant iron and steel plants are considered more appropriate as they offer employment to thousands of people. In this sense, encouraging small blacksmiths is treated as an untenable proposal. If such could be achieved, it would help strengthen these weaker sections.

Livelihood based on Forest Resources

The majority of underprivileged minorities are still dependent on forest resources to meet their basic needs, with this they have always been improving their craftsmanship. But with the takeover of the forests by the government, their rights of using forest wealth have been greatly curbed and middlemen both inside and outside the government have been able to play with the rights of the people.

This became a cause of concern, and the problem of the threat to their livelihood emerged as the forests started becoming depleted after having been handed over to third parties, namely contractors.

It has become apparent by virtue of historical experience that the development of forest areas can be done best by the denizens of these areas and not by legislation. Since 1973, the Chipko Movement has been going on in Uttarkhand region as a protest by the people against the mismanagement of the forests. The Movement became strong in 1974 when women of the Bhotiya tribe of Reni village (Chamoli District) averted the felling of trees which had been auctioned by the Forestry Department by protecting the trees with their bodies. This event later drew the attention of scientists who gave their approval to this heroic act of the tribal women. After Reni Chipko a ban on cutting trees in an area of over 12,000 km² was imposed by the government. Reni Chipko has since then become a leading example of arousing the people against forest destruction. Such movements are today emerging in many parts of Uttarkhand, Chhota Nagpur, Maharashtra and many other areas.

What is necessary to restore the ecological balance is the spread of environmental education amongst people rather than the management of forests through legislation. People can be sympathetic towards forests only when some of their interests are vested in them as a resource. To attain this it is important to hand over the management of the forests to their denizens, and state institutions can in this way become agencies to keep people informed about modern technical knowledge. Also, in view of wood as a source of fuel they can encourage the planting of trees which are of multiple use.

Small industries based on raw material from the forest should be established and given both financial and technological assistance. Such units should be owned and run by the people who live by the forest. Moreover, jobs in forestry, such as planting new saplings, guarding the area, and so on, should be given to the local people.

In this regard village level councils should be set up to look after the management of the forest. The committees so designed should be empowered with absolute rights to manage forests without any external intervention.

Educational Facilities

The educational policy for minorities should be different from the one which is prevalent in order to discourage the use of unfair means in gaining places in educational institutions. Instead of having separate educational institutions, minorities should be given places in the institutions of higher learning used by other sections of society. The present scheme of having separate institutions for them is only strengthening the caste system which is contrary to the cherished goals of having a casteless and classless society. Apart from all this, special care should be taken to provide minorities with all other facilities for education.

Reservation

Although jobs in government service are reserved for the minorities, they still do not have proper representation in many such services. In addition to government services, in village councils, area committees, district councils, state legislative assemblies and parliament, proper representation should be granted to such peoples through the provisions of reservation. But here also they should be elected and not nominated because the latter can cause ill feeling.

Economic Assistance

According to statistics a lot of money and land is being allotted to these weaker sections. But their situation is far from satisfactory and their living conditions continue to remain unchanged. The reason for this is that financial assistance and land grants given to these people were not administered properly, because of apathy among officials. In order to obtain better results, the programmes for moving economic assistance to weaker sections should be reconstituted. If possible, this should be done through village councils which should have members of the weaker sections, social workers and representatives of the government. Also, the official procedures should be simplified.

Removal of Social Inequality

The majority of the weaker sections have been victims of the caste system and their social status has remained in a lament-

able position. We need to promulgate laws in order to curb and later eradicate this spectre of inequality. Law made so far in this regard has not been very effective. In order to make the laws effective we must strive to bring these people into the social mainstream by making a collective effort to wriggle them out of this phase of oppression.

TRIBALS AS VICTIMS OF DISCRIMINATION AND REMEDIES TO IMPROVE THE SITUATION

Sharad Kulkarni

Director, Centre for Tribal Conscientisation

Tribal Situation in India

Over 50 million *adivasis* (tribals) constitute about 7% of India's population. In several states, except some small states in the North-East, *adivasis* form a minority of the population. There are in all 427 tribal communities listed as the scheduled tribes. There are wide differences in the socio-economic conditions of different tribes.

The backward condition of the scheduled tribes *vis-a-vis* the others can be shown even with the use of three indices of development, viz. the proportion of rural-urban population and literacy as also the occupational distribution of workers. As per the data provided by 1971 census, only 3.41 per cent of scheduled tribe persons lived in urban areas as against 19.10 per cent from the total population only 17.63 per cent of males and 4.85 per cent of the females from the scheduled tribes were literate as against 39.45 per cent of males and 18.69 per cent of females from the total population. About 93.5% of the *adivasi* workers worked in the primary sector of the economy, comprising of cultivators, agricultural labour and labour in mining, quarrying and forestry as against 70.56 per cent from the total workers.

Main Problems

Poverty and exploitation, inadequate education, addiction to liquor, isolation from the rest of the community and the sway of superstitions are the main problems faced by *adivasis*.

Protection in law

It cannot be said that the laws of the central and the state governments discriminate against *adivasis*, in fact many of these discriminate in favour of *adivasis*. Article 46 of the Constitution of India has laid down that — 'The State shall promote with

special care the educational and economic interests of the weaker sections of the people, and in particular of the scheduled castes and the scheduled tribes and shall protect them from social injustice and all forms of exploitation.¹ Several states have passed laws prohibiting alienation of adivasis' lands, restoring the alienated lands, establishing monopoly trade in Minor Forest Produce collected by adivasis. There are several schemes and tribal sub-plans for tribal development.

Discrimination in Practice

In spite of several laws and plans made for tribal development there is not much improvement in their conditions, which is mainly because of their exploitation and oppression by the non-adivasis. Non-tribals, particularly the persons of the dominant castes in the area, take full advantage of the tribals' ignorance. In spite of laws to the contrary, tribal lands are orally purchased and later on transferred through falsification of records.² Money lenders charge excessive rates of interest and shop-keepers cheat adivasis by charging higher prices and using false weights and measures. Government servants take bribe for anything and everything. Most of the benefits of the tribal sub-plans and other schemes do not reach the intended beneficiaries in full. Adivasis usually do not understand the intricacies of written procedure and rely on oral agreements. Government officials take disadvantage of their simplicity. Even the schemes meant for tribal development, at times harm them, as was the case of nationalisation of trade in some items of minor forest produce in Bihar.³ Vested interests have powerful allies among the politi-

1. Revankar, Ratna, G., *The Indian Constitution: A Case Study of Backward Classes*, Fairleigh Dickinson, University Press, Rutherford, 1971.
2. See Kulkarni, Sharad, (a) 'Alienation of Adivasis' lands, Government not serious', *Economic and Political Weekly*, Vol. 9, No. 35, 31st Aug. 1974, pp. 1469-71. (b) 'Justice Delayed or Denied?', *Economic and Political Weekly*, Vol. 10, No. 4, Jan. 25, 1975, pp. 97-98. (c) 'Adivasi Sub-plan: A Mid-term Appraisal' *Economic and Political Weekly*, Vol. 12, No. 3, Jan. 15, 1977 pp. 43-45. (d) 'Land Problems of the Adivasis', *New Quest* 10, July-August 1978, pp. 286-290. (f) 'Land Alienation and Legislation' in Gupta, Ranjit (ed.), 'Planning for Tribal Development', Ankur Publishing House, New Delhi 1976, pp. 182-9.
3. Gupta, Ranjit, Prava Banerji, Amar Guleria, "Tribal Unrest and Forestry Management in Bihar, Centre for Management in Agriculture, Indian Institute of Management, Ahmedabad, 1981.

cians and the administrators and succeed in obstructing schemes for tribal welfare which go against them.

A number of migrant adivasi workers are ruthlessly exploited and often held in bondage. Bonded labourers constitute quite a significant portion of total adivasi workers. The Indian Parliament enacted a special Act, the Bonded Labour System (Abolition) Act (19 of 1976). This Act was not well implemented in several states.⁴

Remedies

A change in the attitude of non-tribal exploiters towards adivasis and an improvement in the efficiency of the Government and semi-government administrators incharge of tribal development can do a lot to improve the conditions of adivasis; however, both these appear Utopian in the near future. The only remedies appear to be organising the adivasis and voluntary work among them.

Organisation

There are several social mobilisation groups working among the unorganised oppressed people particularly among the adivasis. They view development as liberation from oppression and diminution in dependence to be achieved through awakening critical consciousness among the poor.

These groups have a style of work that distinguishes them from political parties on one hand and the development agencies on the other. Some groups do take up economic programmes like demand for better wages, release from bondage and starting of employment works. Some of these groups have succeeded in building large mass democratic organisations like Bhoomisena, Kashtakari Sanghatana and Shramik Sanghatana in Maharashtra.

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4. Kulkarni, Sharad D. (a) 'Bonded Labour and Illicit Money lending in Maharashtra: Review of a Report', *Economic and Political Weekly*, Vol. 14, No. 9 March 10, 1979, pp. 561-64. (b) 'Law and Social Change: The case of legislation relating to bonded labour in India' in Gupta, D. B., Halan, Y. C., Desai, B. B. (eds.), *Development, Planning and Policy (Essays in honour of Prof. V. K. R. V. Rao)*, Wiley Eastern Ltd., New Delhi, 1982, pp. 214-222.

There is a definite increase in the socio-economic well being of the adivasis wherever they are united.⁵

Voluntary Work

Several voluntary organisations and individual social mobilisation groups are also working for tribal development. Some of them run educational institutions, dispensaries and hospitals. Several Christian and Hindu missions also manage such complexes. Some voluntary institutions carry on projects to improve agricultural practices. Agricultural Training Institute at Kosbad (District Thane) is one such agency.⁶ There are several such organisations working all over the country.

There are a few agencies that give, information, research and training support to social action groups and voluntary agencies working for tribal development. The Centre for Tribal Conscientization has given social action groups effective support in implementing land restoration laws, regularisation of encroachments on government lands by adivasis and in running a campaign

5. (A) Kulkarni, Sharad, (a) 'Social Mobilisation Groups' in *Voluntary Action*, Vol. 24, No. 4, Nov. 81, pp. 190-2. (b) 'Rural Development and Building up People's Power' in *IMSE Bulletin*, 1981, pp. 10-13. (c) 'Conflict and Development' in *Voluntary Action*, Annual Number, July-August 1981, Vol. 24, No. 1, pp. 3-6. (d) 'Social action with the Poor: A Case Study'; paper submitted to a seminar on 'Social Action with the Poor', organized by the National Institute of Child Development and Public Co-operation on 23-25 Feb. 1982 (mimeographed).
- (B) Pendse, S., Roy, A. K., Sethi, H. 'A Look at Non-party Political Formation: An In-depth Study' in *HOW*, Vol. 15, No. 4, May 1981, pp. 14-22.
- (C) AAFTAAB, "Crisis, 'Action Groups' and 'Political Action'—A Note", (mimeographed).
- (D) Mies, Maria, 'The Shahada Movement: A Peasant Movement in Maharashtra (India): Its Development and Its Perspective', *The Journal of Peasant Studies*, July 1978, pp. 472-82.
- (E) De Silva, GVS *et al*, 'Bhoomisena: A struggle for People's Power, Development Dialogue 1979, pp. 3-70.
6. Deshpande, S. H., Deshpande, Vasant, Kulkarni, Sharad, 'Working with Tribal People: The Institutes at Kosbad Bill, India' in Coombs, Philip (ed.), *Meeting the Basic Needs of the Rural Poor*, Pergamon Press, 1980, pp. 698-791.

against the Draft Forest Bill, 1980 that sought to minimise the adivasis traditional rights over forest lands and produce. We need more of such agencies in different states in India.

Summary

It is possible to check discrimination against adivasis and to improve their backward socio-economic conditions by making full use of laws and by full implementation of schemes for their protection and by a concerted effort of social action groups and voluntary agencies by organising them.

COMMITTEE V — PROBLEM OF MIGRANTS
MIGRANTS — NATIONAL AND INTERNATIONAL

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Rural migration may be to urban areas near the village or far away from it, and also international. National migration can again be sub-divided into inter-state and local, and migration for long periods or periodic or daily migration; such migration can further be either permanent or temporary. There are various causes of migration, some of which are :

Economic Causes

1. Dense population and lack of the means of livelihood.
2. Availability of new land for agriculture in outer regions.
3. Attraction of good productive land.
4. Facility of irrigation.
5. Availability of mineral resources.
6. Availability of forest resources.
7. Facility of transport.
8. Attraction of industrial centres.
9. Facility of trade and commerce.

Physical Causes: Such as extreme climatic conditions, floods, change in the course of rivers, drought, famines, infertile soil etc.

Socio-cultural causes: Such as for the purpose of expansion of culture and religion, or due to persecution based on ethnic considerations.

Political Causes: Such as invasion, conquest, colonisation or forced migration.

Some of the effects of migration are (i) change in population pressure, (2) cultural fusion, (3) economic development of newer nations, (4) Mutual progress, (5) growth of international co-operation, (6) scientific development.

Although intra-national migration caused basically due to lack of employment opportunities and better prospects may bring about comparative prosperity to the migrants and their families, it also causes imbalances at different levels. Studies have shown that migration is basically of adult male population from the rural to the urban areas. This essentially results in family life being disrupted and children being neglected. It also causes reduction in the labour force required in the villages. Migration of adult educated male population from the rural to the urban areas also results in non-availability of local leadership. In spite of the harassment faced by the migrants in the cities, one of the effects of the rural population receiving education is the change in the value system. It is not rare to find educated persons from the rural areas refusing to do manual labour in the fields and migrating to the cities. In addition to the void created in the villages the problem of the urban educated unemployment is aggravated. It also adds to the problem of inadequate transportation facilities, housing and lack of civic amenities and sometimes increase in crime rate. Due to the helpless situation in which the rural migrants find themselves in urban areas, it results in their being exploited by recruiters and the employers. In view of the fact that they are unorganized their legitimate grievances against exploitation goes unredressed.

Conscious of the exploitation of rural migrants, India has passed the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (Central Act 40 of 1979). A perusal of the objects and reasons for the Act demonstrates the realisation by the Government that the system of employment of inter-state migrant labour is an exploitative system. It was realized that such labour was recruited from various parts of the country by the contractors or agents for work outside the State in large construction projects. Although the agents promise at the time of recruitment that wages calculated at piece rate wages would be settled every month, these promises are usually not kept.

Although the legislation was enacted in 1979 and provides for its enforcement through agencies created under the Act, in practice abuses continue and are unabated. A very recent illustration of the exploitation of the migrant workers is demonstrated by their exploitation in the construction of the ASIAD project in Delhi. A

team of three social scientists enquired into the conditions under which the workmen engaged in various ASIAD projects, were got compared. On the basis of the said report Peoples Union of Democratic Rights informed the Supreme Court of India about the prevalent exploitative system. The information sent to the Supreme Court was treated as a writ petition. The Union of India and the Delhi Development Authority (DDA) were arrayed as respondents. In its reply the Union of India asserted that the contractors did pay the minimum wage of Rs. 9.25 per day to the labourers but frankly admitted that this minimum wage was paid to Jamadars through whom the workers were recruited and the Jamadars deducted one rupee each per day as their commission. The labourers were paid only Rs. 8.25 per day. It was also asserted that the provisions of Equal Remuneration Act were violated as the women workers were being paid only Rs. 7/- per day and the balance of the amount of the wage was being misappropriated by the Jamadars. It was also asserted that the provisions of the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 was not being implemented by the contractors. It was also pointed out that the provisions of the Employment of Children Act was also violated and children below the age of 14 years were recruited and required to do hazardous work. The Supreme Court relying on the provisions of I.L.O. Convention 59 and Article 24 of the Constitution of India found the employment of children illegal. It also found that the provisions of the Inter-State Migrants Act and Equal Remuneration Act were violated and accordingly issued directions to the Union of India and DDA to enforce the provisions of the aforesaid Acts.¹

This decision of the Supreme Court bears testimony to the problem of migration and the consequent exploitation even when the Government is the principal employer. The migrants may have won a theoretical battle in the Supreme Court but whether they get the balance of the wages and whether such exploitation would not be repeated by private contractors and state agencies is a matter of speculation. Since migration is sometimes due to push factors, such exploitation is inevitable. What can, however, be done is to ensure the enforcement of the beneficent legislations made for the protection of the migrant workers at

¹ Writ Petition No. 8143 of 1981: Peoples Union of Democratic Rights vs. Union of India and others, decided on 18.9.1982.

the national level and also the provisions of various I.L.O. conventions. The following suggestions with respect to intra-national migrants may be considered :

- (1) Evaluation of legislation in existence for the protection of migrants ;
- (2) Strict enforcement of such provisions ;
- (3) Proposal for further legislative actions to fill the existing lacuna ;
- (4) Dissemination of information about such legislations and making them accessible to unorganized and poverty-stricken migrants ;
- (5) Treatment of migrants in a humane manner by the State and its agencies and providing basic amenities.

Migration from South Asia to Middle East

In spite of the fact that such migrants have become a big source of foreign exchange remittances, they continue to be exploited and subjected to malpractices.

The I.L.O. being concerned with the exploitation of the migrants to the Middle East arranged a symposium at Islamabad in May, 1981 to consider ways and means of improving the operational procedures relevant to recruitment and placement, contract formulation and enforcement and minimisation of exploitation by private recruits.

The seminar summarised the impact of migration as follows :

- improvement in the foreign exchange reserve of the country ;
- relief in the real unemployment and under-employment situation ;
- emergence of skill shortages at home ;
- inflationary pressure on the economy ;
- social tensions arising out of improved life style of the remittance receiving households ;
- rise in domestic wage level ;
- disruption in family life ; and
- adjustment problems of returning migrants.

It was urged that the following rules should be studied with a view to their policy implications :

- the demographic impact of migration ;
- whether migration is hampering commodity exports by pushing their prices to uncompetitive levels due to wage increases ;
- the relationship between the imposition of unrealistic standards and bureaucratic controls on the one hand, and the incidence of exploitative practices on the other ;
- taking into account the flow of remittances in fiscal and monetary policies ;
- a planned approach to promotion of foreign employment, taking note of the implications of enhanced migration on local labour markets ;
- obstacles to occupational mobility and other similar imperfections in the home labour market with a view to identifying remedial measures.

Although migration at the international level cannot be stopped it should be regulated.

What is, however, disquieting is that with the migration of semi-skilled, skilled and professionals the development process of the developing countries is retarded.

If migration of masons and carpenters raises the wages in the local market the migration of professionals like doctors, engineers, etc., deprives the countries of scarce expert resources. If the developing countries spend considerable sums of money towards the education and training of such professionals would it be too much to expect some compensation from them.

COMMITTEE V — HEALTH PROBLEMS AND HEALTH SERVICES

HEALTH FOR ALL BY 2000: MYTH OR REALITY

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Introduction

It is an accepted premise universally, but more especially in developing countries, that health/health care has become a political science rather than solely a medical one. The Universal Declaration of Human Rights states: "Everyone has the right to adequate health and well-being for himself and his family". Bangladesh is not alone in its failure to achieve this reality.

I propose to substantiate my charge that this failure lies in the fact that countries/governments have not developed democracy in a real sense, and people are therefore left without a system to safeguard their hopes and aspirations — in this particular instance, with regard to health and health care.

Banerji, writing in a similar vein, says that alternatives in a health care system are very much a political decision and these alternatives are formulated either to find more effective approaches to serve the ruling oligarchy, or, much worse, to provide an aura of legitimacy to an obviously unjust social system by arousing false hopes among the under-privileged and under-served.¹

Community and Participation

What do we mean by community? Do we expect those who happen to live near each other to have similar aims and interests, necessarily, forming a homogenous, peaceful and closely-knit society?

¹ *Formulating an Alternative Rural Health Care System for India*, D. Banerji, Centre of Social Medicine and Community Health, Jawaharlal Nehru University, New Delhi, December 1976.

Such an expectation is utopian in any culture, but in Bangladesh, totally ignores the blunt and obvious realities. The villages of Bangladesh are dominated by a relatively small but powerful ruling elite, living alongside poorer and more ordinary folk. The life of the latter is a constant struggle against oppression from their wealthier neighbours. Although both classes live in close proximity, their needs and priorities differ and, moreover, often oppose each other.

What do we mean by participation? A woman who spends hours every day carrying heavy burdens of water from the river or well to her house, is participating in a water programme at one level, while the village elite participates at another. It participates primarily in the control of the water, in the decisions as to how it will be used and by whom, and at what price. However, ideally the health care of such a 'community' should be the concern of all, both rich and poor. And, ideally, all should participate in solving the community's health care problems.

Through the centuries, different communities have evolved different ways of dealing with their own health problems based on their own ways of life, their own unique cultures. A community's response to its health problem will vary with respect to the epidemiology of the disease, their traditions and ancestral knowledge about how to deal with the disease, their access to more 'modern' therapeutic prescriptions, etc. To bridge the gap between official, formal, or simply prevailing 'scientific' knowledge about disease, and the variations among ailing populations, the 'barefoot doctor' approach (health with and through the people) has evolved over the years to overcome the shortcomings of the more conservative 'missionary' approach (health to the people).

It cannot be denied that in developed as well as developing countries, political forces have a dominant role to play in shaping the framework of health services in any given community. Decisions concerning resource allocation, choice of technology, type of manpower, and availability and accessibility of health services, are for the most part determined *outside* the community itself. The special or specific characteristics of a limited population have little chance to influence such decisions imposed from above.

In Bangladesh, most 'communities' lie in the rural areas, where 92% of Bangladesh's population lives. The government sheds crocodile tears for them, stating that "the provision of primary health care for rural areas is assigned very high priority in the programme of 1982-83".² In reality, less than 30% of the health budget is spent in rural areas. The situation is not much different in most other third world countries.

Other factors influence the health status of any given population as well, sometimes even more than the amount of money spent on formal health services. Socio-economic conditions, employment and income distribution, housing, education, nutrition, water supply, etc. — all are significant.

Poverty and Exploitation

That health care and service is not relevant to the needs of the majority of the population it is intended to serve, is not peculiar to Bangladesh, or, for that matter, to only third world countries. Thomas McKeown claims that modern medicine is not effective because medical science and service are mis-directed, and society's investment in health is misused. He feels that the root of this problem is a false assumption about human health itself.

Physicians, biochemists and even the public, he claims, assume that the body is a machine. It can be protected from disease primarily through physical and chemical intervention. This 17th century approach has led to widespread indifference to the influence of environment and personal behaviour — which are, in fact, primary determinants of health. Modern medicine emphasises treatments which are actually less important, and secondary. This, McKeown says, results in the neglect of sick people whose ailments are not within the scope of therapy that interests the medical professionals³. Poverty remains the chief cause of disease and it is a factor beyond the immediate control of medicine⁴.

² *Annual Development Programme 1982-83*, Planning Commission, Government of Bangladesh, 1982.

³ *Determinants of Health*, Thomas McKeown, published in *Human Nature*, April 1978.

⁴ *Inequalities in Health* (Report of a Research Working Group), Dept. of Health and Social Services, England, 1980.

Colonialism has left much of the developing world, including Bangladesh, with health systems largely irrelevant to their conditions. The task of medicine is to promote health, to prevent disease, and to treat the sick when prevention breaks down, and rehabilitate them after they have been cured. These are highly social functions and we must look at medicine as basically a social science⁵. However, the accoutrements of "modern" medical care — western medical school training, foreign textbooks, imported drugs and urban-oriented, highly specialized hospital units — are unable to cope with the reality of diseases of poverty (malnutrition, malaria, tuberculosis, leprosy, tetanus and diarrhoea, etc.). Village health clinics before city hospitals, clean water before antibiotics, adequate food before vitamins, breast-feeding before powdered milk promotion and vaccination before heart and kidney transplants — don't seem to be within the scope of most workers trained to deal with "medical problems".

Doctors and money are, for the most part, safely ensconced in institutes designed to serve the rich. From there they produce their scholarly papers saying that the poor also have problems, but not problems for which treatment is available to them. Julian Tudor Hart expresses this well when talking about the 'new liberals', whom, he says, ignore the question of a social base for their medical proposals. He maintains that while they put their 'truths' into professional literature and announce it at conferences, they quietly leave the implementation of their ideas to others. Organizing campaigns, finding and informing those social forces which might actually bring about social change they do not admit is also their responsibility. He claims they have done little or nothing to ally their 'ideas' with the needs of health workers threatened by arrested development of health service and have instead relied on intellectual persuasion of the Establishment, who maybe hears, but does not listen⁶. And so, since there is no law governing such affairs, the diseases of the poor remain rampant and ignored.

The cycle of exploitation in the field of health services is like the ever-widening circles formed by a stone dropped into

⁵ Ibid.

⁶ *Pas Medicine or Human Biology?* J. T. Hart, paper written for presentation at Medical Students' Conference at the University of Witwatersrand, Johannesburg, February 1978.

a still pond. Tuberculosis affects 5% of the population of Bangladesh. One day's treatment with the drug rifampicin would cost a labourer two days' wages. Meanwhile, some drug companies refuse to manufacture/produce streptomycin (a much cheaper alternative drug) but fight to get their useless formulations of vitamins and minerals on the market, assuring the ill-informed public that these tonics can 'cure all'. The diseases which kill our people require social change, not medicine.

Bringing the picture to the doorstep of our own Project, let me illustrate with a few examples: Sofia's husband, a day labourer, died, leaving her with three small children to care for, as well as her own established case of tuberculosis. Gonoshasthaya Kendra could provide her medical treatment, but this did nothing to feed Sofia and her children. Once she had regained some strength, she was provided with work in the project by which she was able to manage the bare necessities for herself and her family. The next blow came when her mother contracted cancer of the cervix. 'Free' government treatment is available for such cases. The only cost to Sofia, in order to have her mother treated, was the price of the tin roof of her house. She sold it for 600 taka for the initial bribe so her mother could enter the hospital. Are the poor not to contract such diseases, or should they simply be denied the treatment readily available to the rich and influential? Where is the 'democracy' in this distribution of treatment? The poor have no chance under the present system — they do not possess the means for 'participation'.

Nizam, one of our senior paramedics, was sent to set up one of our medical sub-centres in his own home village. Unfortunately for Nizam, honest, low-cost medical facilities would infringe upon the highly lucrative practice of the only local MBBS doctor (who, incidentally, had a business selling the otherwise 'free' government drugs). Nizam's brutally murdered body was found bound up in a burlap bag in a derelict pond after several days' searching; to this day, the head has not been found. Yes, in Bangladesh there are laws regarding murders, and we swiftly put all manner of effort into apprehending the culprits and seeing justice done. The late President Ziaur Rahman even charged the Inspector-General of Police to take immediate and appropriate action against those responsible. The main henchman was never

even taken into custody and the self-confessed murderers were represented by a respected and renowned political leader from the same area as those who arranged for and hired the murderers. This lawyer told the judge he certainly wanted justice, but until the police had all the evidence, the men should be free and he would stand surety himself. True to the villagers' predictions, all were set free on bail. Now, five years later, no trial has yet been brought. Those who can afford to buy the law continue to roam free. Once again, our democratic system is represented by the exploiter. The poor can vote, yes — but they must vote for the right person. Otherwise, they will find on the polling date, that their votes are already cast in favour of the 'right' democrat.

Family Planning and Cash Incentives

Improvements in the health of families over the last century resulted less from medical advances than from sanitation, better food and family planning. The latter has been in part dependent on improvements in the former fields. In fact, it can be argued that improvements in family planning acceptance depend not just a little, but in a large part on improvements in the factors which make up the 'quality of life', not such quantifiable 'improvements' as the number of contraceptives flooding the market, the number of field workers supposedly walking from house to house to deliver them, or the amount of money paid and sarees and lunghis distributed to ligation and vasectomy patients. Numbers and figures may conceal a reality with an opposite significance — services delivered on paper, but not in actuality. In the case of cash incentives, the numbers, which are disappointing at best, also conceal a poisoning of the mind and coercion of the pocketbook superceding, in many cases, consideration of the welfare of human beings.

The whole purpose of family planning is that couples can enjoy their sex and family life without fear of pregnancy. When it becomes instead a monetary racket of corruption and coercion, gainers and losers, an entirely different picture emerges. Those providing a service become instead competing profiteers — if they cannot force their target numbers into accepting sterilization, they falsify the records (easily done because no-one checks how they

are made) and divide up the 'compensation' among themselves. Those men and women who are sterilized in effect 'sell' their pride and human dignity by accepting payment for an operation which makes them conform to planners' wishes. A parallel can be drawn with prostitution. The prostitute sells the body to survive, knowing that the person with whom they complete the transaction treats their own, only and most personal physique as a clinically detached commodity — without regard for the emotional or physical implications of the action. Under the cash incentive system, the sterilization patient is often no more than a number of the doctor and motivator — who care little about the welfare of the post-operative patient. If problems arise after the operation, it hardly matters to them, for the patient has served his/her purpose. The real reasons for family planning are lost in the shuffle, and sometimes the patients' life, dignity, or health drops by the wayside as well.

In order for family planning to work for the benefit of both the person and the community, as it should do, it must be voluntary. This is why the incentive system to encourage sterilization has never really taken hold and the reasons for not accepting sterilization have only been erased under higher and higher amounts of incentives. If family planning had been offered as part of an integrated health service, and sterilization were an option with strong characteristics in its favour, people would be more willing to accept it. Proper motivation and follow-up would give people an assurance that the rewards would be more permanent than a few hundred taka or a cheap saree which will have holes in a year. As it is, the present system is a degradation to both parties.

One wonders at the rationale behind the whole incentive system. A village woman with obstructed labour and likely to die is given no incentive to go to a hospital where she, at least, if not the child, could be saved. In countries where tuberculosis is rife, no incentive is offered to patients, to get them to seek necessary help, treatment for him/herself, and check the spread of the disease. There are already common vaccines to control some of the most important diseases which keep infant mortality high in developing countries (BCG, DPT, Measles, Tetanus). Why not an incentive programme to promote these vaccines in countries where children are a source of income and security for

parents' old age? Such a programme might automatically result in a lower birth rate.

It is fixed in the mind of 'developed' countries that the biggest problem in 'developing' countries is overpopulation, and the wealthier big brothers are obliged to bring the citizens of poor and crowded countries the cure. Why? Would it not be more appropriate to have the general health of the populations of these countries uppermost in mind? Dr. R. T. Ravenholt, then Director of the U.S. Office of Population (a State Department agency), proposed a programme known as "advanced fertility management", whose objective was to sterilize one-quarter of all third world women in nine years. At the time he was quoted as saying: "without our trying to help these countries with their economic and social development, the world would rebel against strong U.S. commercial presence. The self-interest thing is a compelling element. If population proceeds unchecked it will cause such terrible economic conditions abroad that revolution will ensue and revolutions are scarcely ever beneficial to the interests of the United States".⁷

A monograph published by the Carolina Population Centre puts it well by saying that "cash has the image of being dirty and mercenary. The image of selling one's potential unborn children or one's manhood for 'filthy lucre' upsets many. . . . Cash does, however, have a firm, clear, tangible and immediate impact on the 'seller'. . . . Unscrupulous businessmen might pay cash for any material incentive, giving less than value".⁸

The poor are the objects of this degrading system, and yet, contrary to prevailing belief in the West, it is the poor who are builders of their nations, the work-force which keeps things moving without deriving any benefit for themselves. From birth to death, they are under the thumb of the ruling class. Even through a material incentives system, they get far less than their value.

⁷ "When other People's Babies are Bad for Business", Jeremy Campbell's Washington Newsletter, as appeared in the *Evening Standard* (London), May 11, 1977.

⁸ *Incentives and Compensations in Birth Planning*, E. Pohlman (Monograph 11), Carolina Population Centre 1971, pp. 27-28.

The Role of W.H.O.

Halfdan Mahler, the Director-General of the World Health Organisation, was the first to coin the slogan "health for all by the year 2000" at the Alma Ata conference of 1978. Examining the activities of the W.H.O. will prove just how much activity has followed those inspiring words. In short, one will notice that the slogan will not become a reality by the deadline, at least if progress is as slow as it is to date.

The WHO has carefully kept a safe distance from the real struggles to make their slogan true, as evidenced during the recent Bangladesh drug policy's announcement and its aftermath. Although the policy appears to be a culmination of the principles espoused in the conferences and workshops sponsored by them, and in their publications, such as the "Selection of Essential Drugs", they kept quiet as the United States and other governments tried to pressure the Bangladesh government into giving up the policy. In fact, most of the local multinational companies encouraged journalists to visit the WHO office in Bangladesh, where they found that Dr. Z. Sestack, the local WHO representative, claimed to be personally in favour of the policy, but defended his official silence, saying "it is not WHO's role either to applaud or condemn the policy". When asked about the reaction in WHO's Geneva headquarters, he reportedly said that he didn't know, and reporters would have to contact Geneva to find out.⁹

In the real struggle to get medical and health care to the people, the name and face of WHO rarely appears on the scene. There is no question that their Technical Report Series No. 641, listing in selection of essential drugs, was and is a useful document, and a definite contribution towards rationalizing health care. Although WHO was author and publisher, however, they make sure that the book is not distributed to doctors and health personnel. When Gonoshasthaya Kendra offered to reprint the booklet, the local office prevaricated, saying that we needed proper permission. Later, we discovered that we did not need permission, as WHO documents are not subject to any copyright. One might ask, why print it at all then? To keep academic face?

⁹ Letter written by War on Want, July 6, 1982, quoted in "Strange Silence on Dacca Drugs Ban", *Economic and Political Weekly*, September 18, 1982.

Numerous seminars are now being held about drinking water. But for the vast majority of people, drinking water is not the priority. Water for their fields is more important. For without 'safe' drinking water, a man or woman knows that he or she or the children may die of infection, but the adults will probably live. Without water for the fields, however, neither the adults nor the children will live, for neither will be able to eat. Instead of advising palliative measures, the WHO could get down and actively support attacks on the roots of problems.

An article by Turshen and Thebaud puts it well, saying ". . . medical aid, like food aid, is a weapon of foreign policy wielded by donor nations and it provides an easy entry to vast third world markets for multinational corporations — in this case, the pharmaceutical industry. In the past decade, drug companies have increased their influence in WHO through participation in three new programmes: human reproduction, tropical disease research, and essential drugs for primary health care. The drug industry's penetration is indicative of WHO's continuing reliance on technological and industrial approaches to problems that are economic, social and political. Rather than promoting 'Health for All', isn't WHO furthering the medicalization of under-development?"¹⁰

Conclusion

Sigerist¹¹ has suggested that we need a system of health services that reaches everybody — healthy and sick, rich and poor, and there is no reason why we should not be able to establish such a system until the basic rights of every individual have been acknowledged and are enforced by a true democracy; a people's democracy, a system in which the oppressed classes truly control the means to overthrow the oppressor. So-called adult franchise of the present world is nothing but the mockery of a peoples' democracy. At present, what has been called the 'inverse care law' prevails — the availability of good medical care tends to vary inversely with the needs of the population served.¹²

¹⁰ "International Medical Aid", M. Turshen, A. Thebaud, *Monthly Review*, New York, December 1981.

¹¹ *Civilization and Disease*, H. Sigerist, University of Chicago Press, 1962 (first published by Cornell University Press, 1943).

¹² "The Inverse Care Law", J. T. Hart, published in *Lancet* (1), 1971.

COMMITTEE VI — LEGAL AID AND LEGAL SERVICES

LEGAL AID AND LEGAL SERVICES IN RURAL AREAS

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My experience in legal aid is limited to the tribal areas in South Gujarat particularly Bharuch district where for the last six years I have been trying to give legal aid to the poor. The area I am working in is predominantly rural with small urban pockets. Whatever I say in this paper has direct application to the area of my experience. But from whatever little I know of other places, my paper may have some application in other rural areas in India and even some urban areas. I propose to take up the following questions for discussion in the order in which they are mentioned below :

- What forms of legal assistance are most needed in rural areas?
- How can they best be provided?
- What role is there for para legals?
- How can they be trained and financed?
- What forms of dispute settlement can be made available other than court action?

What forms of legal assistance are most needed in rural areas?

One of the main characteristics of the countryside is worth noting in this context. It is illiteracy of the population, especially the females. Literacy percentage is abysmally low. Even though almost all the large villages have a primary school, teachers and a large number of boys and girls on the rolls, there is little of teaching and learning going on in those schools. Many of these schools run only on paper. At times the teachers who are appointed absent themselves. At times the teachers are found to be drunkards. In many schools, the children absent themselves from school regularly. Even children who have passed out of the ninth standard are frequently unable to read and write. It is seldom

that parents insist on their daughters attending school even if they encourage their sons to attend school.

Illiteracy has much to do with the type of legal assistance required in the rural areas.

- Many of the documents with thumb impression contain terms of contract which are unknown to the party affixing thumb impression.
- Illiterate persons are unable to keep count of the money they borrow from money-lenders. Whatever accounts the lenders scribble have to be relied upon by the illiterate persons. Illiterate persons buying on credit grocery goods from shops are often shocked when large sums are demanded from them or when their lands are taken away from their possession against the sums they owe to the shop-keepers.
- Illiterate persons are frequently incapable of communicating their exact grievances to the legal practitioners. For example, they may admit at first that they borrowed Rs. 100/- only. If they are asked: "Did you borrow Rs. 200/- from so and so?", they may reply in the affirmative.
- Illiterate persons are often misled and swayed this way or that as they have little knowledge of the legal processes. If some persons having a vested interest approach them to get them to compromise, they may affix their thumb impression readily and compromise their case.
- Illiterate persons approach legal aid personnel accompanied by some village leaders who are seldom trustworthy as they may happen to be touts.
- Illiterate persons may not have a correct idea of the legal proceedings. But they have their own ideas about the legal proceedings. Often when they come with their grievances they are likely to give a twisted version with which they wrongly imagine they can get maximum relief.

Poverty in the rural areas is appalling. It suffices to say that hardly ten per cent of the rural population do not starve even for small periods of time during the year. Ninety per cent of the people in our area are on forced starvation-diet for at least some days each year including the years in which bumper harvests are

reaped. It is most rare to see a farmer who is not steeped in debts. Interestingly, I could find only landless labourers who were not indebted, the reason being that they were not at all credit-worthy. Almost all those who had land or even a regular job were deeply indebted. The persons with more lands than others were often found to be more indebted than the others.

Poverty of this type has much to do with the type of legal assistance required in the rural areas.

- Lands of the poor may easily be taken away from them by implicating them in some litigation. It is sufficient for an exploiter to get an injunction to enter the lands with the help of some forged documents against a farmer to ruin the latter. The farmer is so totally dependent on the land that his status and credit-worthiness disappear with that one stroke. He may not have any money to bear even the travelling expenses to legal aid centres and the court. Even should he win the case, appeals to superior courts may drag on for years and he may be left high and dry even before the appeals come up for hearing.
- Often poor farmers are taken to some third-rate lawyers by touts employed by them. Touts get a commission on each case they bring to a lawyer. This practice is against the norms of conduct of lawyers but some lawyers disregard these norms. Such lawyers are paid by farmers by selling part of their lands, or bullocks, or house, etc., in the hope of winning the case. It is often after spending all the cash they could raise by selling things and by borrowing that they may turn to the legal aid personnel for assistance.
- Mere restoration of land is likely to be of no avail to a farmer who may have sold away bullocks and agricultural implements and may lack the other inputs.
- The poor litigants are so desperately in need of cash that at times they would readily part with their disputed land if a small sum is offered to them for it as a temptation.
- People like the agricultural workers cannot afford to go to Court to obtain minimum wages for fear of losing even the paltry sum they get from agricultural work. If they go to Court they may not be called to work and they would

become marked. Labourers from distant parts are only too willing to work for less than minimum wages.

A third characteristic of rural areas is their remoteness from secular and rational institutions. The rule of law simply does not exist in many parts of the countryside. Instead, there is a well-established rule by certain unscrupulous elements who are above the law. They and their henchmen are able to have their whims pass for law.

Most often they assume a cloak of legitimacy by joining the ruling political parties and changing their parties as the fortunes of the parties change. The local rulers have their relatives fill up the positions in the bureaucracy and police. They even try to corrupt the judges by offering temptations.

Remoteness from secular and rational institutions have much to do with the type of legal assistance required in rural areas.

- It often happens that the local exploiters who enjoy political power too, are able to beat up their opponents and on top of it institute cases against the victims on various false charges.
- The local *dadas* (as the usurpers of power are called) are in a position to manipulate the investigation of a case by police, journalists and administrators. They are also in a position to intimidate and turn away witnesses when they fear adverse judgements and conviction of their supporters.
- It may also happen that a partnership exists among the *dadas*, administrators, police, forest officials and at times even the school teachers.
- The well-trenched *dadas* are in a position to crush even the slightest forms of protests by spirited citizens, by physical liquidation when threats do not suffice. Normally, they do not allow protests to grow to unmanageable proportions. On the contrary, they take no chances and nip all opposition to them in the bud.

I have outlined three characteristics of the rural areas and indicated how they affect the forms of legal assistance that are most needed. Making a competent lawyer available to the poor is only a beginning of legal aid. Actions on three other fronts are greatly needed.

Illiteracy : Legal assistance is an exercise in futility if efforts to make the population literate are wanting. Not only are reading and writing to be insisted upon, but there must also be a stress on one's rights and legal ways of enforcing rights when the same is denied.

Poverty : In the drive to make people literate, people may be given opportunities to learn to solve their basic problems of food, shelter and clothing. Certain values like co-operation as opposed to cut-throat competition may be instilled and promoted.

Secular and rational institutions : I have seen that people respond positively when there is a reasonable hope of overthrowing exploiters and oppressors. People's movements are most important in creating secular and rational institutions. Setting up of a committee in each village to discuss common problems including oppression and exploitation and to create public opinion and also to initiate community action against the oppressors may be adequate means to setting up secular and rational institutions.

How can they best be provided?

Providing a competent lawyer to represent the poor people is a hard task. After thoroughly scrutinising a case the legal aid office must decide if the person ought to be assisted. If the person deserves help the office must find a competent lawyer and hand over the brief taking the responsibility of remunerating the lawyer and monitoring the progress in the case. In deciding to assist a client in this way the office must also be prepared to go to the courts of appeal if and when necessary. In the matters of illiteracy and poverty, a mass scheme of non-formal, functional education is being tried aiming at universal literacy in our area. I believe we are making a certain breakthrough in this respect. Our scheme employs literate youths after careful training in agriculture, health-care, group activities, animal husbandry, forestry, horticulture, poultry-farming, community organisation, etc., in each village. They identify themselves with the village people and act as facilitators besides conducting adult education and educating children. They also arrange educational film shows, dramas, puppet shows, etc., with a view to provoking community thinking at village level.

What role is there for para legals ?

Persons who are familiar with the court procedure and having an elementary knowledge of the common law applicable to the common people of the area are greatly useful in screening the cases, preparing petitions and following up the cases in court. They are also needed to make any investigations at the villages concerned, and to assess the chances of the aggrieved party holding out to the end.

The para legal personnel are also needed in imparting to people some awareness of their rights. This may be done at village level citing case laws familiar to the people of the place. The para-legal personnel can be a link between the office and the client. They may help the client get all the documents necessary and carry messages to them from their lawyers regarding dates of hearing and documents which are required.

How can they be trained and financed ?

The training must introduce them to the laws which are most applicable to the common people. Lectures may be given to them by practising lawyers in such laws. Thereafter they may spend some hours in court every day and take notes of what they see and hear for discussion with expert lawyers later on. They may also move among the poorest sections of people who are most exploited and try to assist them by speaking of legal aid available to them and follow up the matter to the end. They may also visit villages, hold meetings and stage dramas, etc., using typical cases in which poor people are exploited. On such occasions several cases of exploitation come to light, on which they may apply their minds.

Financing the para-legal personnel is not so hard as financing legal aid projects. Training can be completed in a matter of six months of intense work.

What forms of dispute settlement can be made available, other than Court action?

If legal aid is accompanied by a people's movement, it is possible to call upon the exploiters who are used to malpractices and gross violation of law with impunity to appear before the

village community and avoid prosecution for many misdeeds by giving up ill-gotten wealth and expressing regret for the past.

The people also have certain forms of settling disputes especially in sexual matters, an important area of dispute. Normally, these are effective if outside influences do not interfere. These may also be encouraged to settle disputes.

Violence and Counter-violence : Police Methods

Is there an escalation of violence and counter-violence ?

Violence in the area of my work is an accepted way of life. The money-lenders who loan money at exorbitant rates of interest illegally to poor tribals do not find it easy to recover the loans from the borrowers. The lenders maintain a number of musclemen who terrorise the defaulters, beat them, take crops away forcefully, search their houses, carry away all furniture, search their person, take away any cash or valuables, take away bullocks and cows, etc. Some of these money-lenders are also known to confine the defaulters in cages after stripping them naked and applying chilli powder over sensitive parts of the body.

Landless agricultural labourers who may organise themselves to demand minimum wages fixed by law are often thrashed by musclemen of rich land-owners.

Counter-violence is conspicuous by its absence. People have generally lost hope for a better future and are resigned. Sometimes, these labourers are compelled by hunger to go in groups by night and steal standing crops. At such times they may even overpower the watchmen, if necessary, to get grains for a meal.

Are police abuses prevalent ?

It is generally believed that much of the illegal activities like manufacturing and selling alcoholic drinks, smuggling, sale of girls for immoral purposes, etc., happen with the knowledge of the police. The police are believed to have their own system for getting some extra income, by having a network of informers whose work it is to get people to file complaints, whereupon the police come in and take money from both complainants and accused. If individuals or groups resist their system, police come

heavily upon the villages concerned, mercilessly beating up all and filing false complaints against all the persons they wish to harass.

Is there harassment of rural activists ?

Rural activists who harm the vested interests are harassed. One of the usual ways is by implicating them in innumerable false cases whereby most of the time of the activists will be spent in going to the courts to defend themselves.

What are the causes and remedies ?

Harassment of the rural activists by the police is generally at the instance of political bosses and other vested interests. One of the remedies would be to organise people's movements and arouse public indignation against guilty police officials. Another remedy is to drag the police to court for their misdeeds.

POPULAR PARTICIPATION AND LAW: AN ESCAP PROJECT

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I. Introduction

ESCAP's Social Development Division has been developing its popular participation work over the past two years. A number of factors have emerged as prominent in the research and discussions connected with this process. Among these are the extreme variability of the environment of popular participation, and the partially related low predictability of results, the difficulty of finding general techniques for the resolution of conflict, and the great diversity of the popular participation projects which appear to have achieved a measure of success.

These factors pose severe difficulties for the development of a programme in a region so diverse as ESCAP's. It is difficult to conceptualize a process which will be of at least potential benefit to a significant proportion of those with such diverse interests and circumstances.

A rationale for such a programme has emerged, though, one which focusses on the factors mentioned above in what seems to be developing into a useful approach. This rationale implies that it is possible to make positive use of apparent unpredictability through the development of guidelines for exploiting its very real potential. The rationale itself also suggests why this potential cannot be seen by those who assume that participative processes can be contained and guided bureaucratically. The rationale suggests the use of law, legal processes and legal people in a general conflict resolution process which accepts and exploits the variability of problem situations.

It is clear that, where a measure of participative success has been achieved, it has been at least partly the result of autonomous local-level organizations. It is also clear though that the

* This paper does not necessarily represent ESCAP's (Economic and Social Commission for Asia and the Pacific of U.N.) position.

latter require some kind of outside assistance. They must operate in a national set of organizations and processes, they must be able to acquire and interpret relevant information and adjust their own operation accordingly, and they must be able to defend themselves. However, attempts to rely on bureaucracies for such assistance have not worked. It seems virtually impossible to give local bureaucrats the flexibility to perform these functions, and to operate simultaneously within bureaucracies.

Legal processes and people offer an alternative to bureaucracy for external support to popular participation. Legal processes are better structured for dealing with the surprises which seem inevitable, and they are less formally committed than are bureaucracies to particular policies and approaches. Lawyers are trained into at least the beginnings of multidisciplinary competence. Law is susceptible to organized appeals. And law, by its very nature, is capable of dealing with local heterogeneity.

The argument for a pairing of popular participation and legal recourse is further strengthened by the fact that popular participation is focused upon distributional questions, and so will generate the kinds of conflicts that law is designed to deal with.

There are, of course, problems involved in attempting to utilize law in this way. Law has in fact generally been a conservative force in society. But there is a growing law and development movement, expressed for example in increasing interest in structural legal services and the human rights associated with development. If this can be directed to popular participation the potential is great for increasing the self-defensive capacity of participative groups.

II. ESCAP's Project To-date

ESCAP's Social Development Division's law and participation project was initiated in Bangkok in February 1981 with an organizational and conceptual meeting, "Workshop on Social Problems of Low Income Groups: Some Legal Approaches". Two country workshops have been held (June 1981 in Penang, Malaysia, and November 1981 in Baguio City, Philippines) to examine problems and prospects in South-east Asia. An expert group meeting was held in February 1982 in Colombo, Sri Lanka

to assess the project, and to examine possibilities for its extension into South Asia. The latter three meetings were co-sponsored by the Consumers' Association of Penang, the Institute of Philippine Culture and the Marga Institute respectively. Participants have included people from government, academia and NGO's in the three broad areas of popular participation, law, and development studies.

Finally, people from the Legal Aid Institute (Lembaga Bantuan Hukum) in Jakarta, Indonesia, acted as advisors to assist with the initiation of law and participation programmes in Malaysia and Thailand. Seminars were held for this purpose, co-sponsored in Malaysia by the government Legal Aid Bureau, and in Thailand by the Thammasat University law faculty. Both seminars have resulted in the formation of planning groups composed of interested people from government, NGO's and academia.

III. Emergent Themes and Tentative Conclusions†

A number of themes are common to the research and discussion associated with the law and participation project. Some of these are discussed briefly below. It is important to realize, though, that, because these themes challenge both the conventional knowledge of development policy-making, and radical alternatives generated in opposition to conventional knowledge, they can only be introduced here.

A. Social System Predictability

It is by now clear, or should be, that it is not possible to predict the local response to top-down (trickle-down) policy. Generally, of course, the response has resulted in huge increases in the relative wealth and power of local elites. And this has been the result whether or not policies have been designed to favour the poor and the weak.

Administrative de-centralization is no answer to this. On the contrary, de-centralization, unless it is accompanied by

† This discussion is to be found in more detail in the reports of the various meetings. These can be requested directly from the Social Development Division, ESCAP, UN Building, Bangkok.

increases in the power of the poor, simply tends to increase the flexibility of local bureaucrats (or their vulnerability), and this flexibility invariably is captured and exploited by local elites.

Popular participation then cannot be a community development, little-income-generating-project, "felt need" approach. Participation must be participation in the exercise of power, the power of joint action, the power that is made possible by operating room which itself must be a result of policy.

B. Self-Defence

It is clear that local participative groups must have the capacity to defend themselves. The central theme of participation is necessarily that of distribution, and local level processes which address distributional issues will necessarily generate conflict. If conflict is not to result in violence or repression (and this is germane whether or not participation is at issue), the poor must have access to alternatives.

Legal recourse of some kind is a natural supplement to participative organization and activities, and attempts have in fact been made to use the law in this way. Unfortunately, however, these attempts have generally not been well suited to the exigencies of participative development. The result has often been to create dependence, in much the same manner as financial or organizational assistance creates dependence.

"Legal aid", in fact, is not an appropriate term for what should happen when law and participation attempt to marry. "Legal services" is better, if it is understood to connote a supportive, or, better, synergistic, response by law to the emergence of participative possibilities. Responsiveness in this sense means that law and legal processes, if they are truly to support, must to a certain extent be tailored to the shape and needs of participative processes and organizations. Legal people have at least as much to learn from participative people as the reverse. And this learning must be done in an action research mode. Both bodies of action/knowledge must be seen in dynamic relation to each other. There is absolutely no scope for patron-client relationships.

It is not possible to say much about the form that participative law or participative legal processes will take; forms will emerge from experience. There has, though, been some discussion of participative legislation which might in some ways be analogous to corporate legislation. More generally, legal codes should be examined to locate and remove impediments to participative groups, and to add facilitative measures. Forms which require extensive use of formal legal processes must be adjudged failures. Rather, participative groups must be seen as poised to use law efficiently and effectively precisely so that they will not have to do so.

C. Facilitating Measures

Structures and processes external to local participative groups are necessary to facilitate self-defence. Government alone cannot perform this function; the circumstances and techniques of participation are too diverse to permit articulation with bureaucratic structures. It is necessary that external support be able to respond to the variety of surprises which characterize successful participation.

Government will certainly play a central role in the facilitation of participation. Just as certainly, though, effective support for participative groups must itself be a participative effort, one characterized by openness to action research, and to mutual complementary change. The little experience available suggests that a flexible combination of government, NGO's academia, and private lawyers and lawyers' group is *necessary*. Exclusive control of the support function inevitably means that it will be taken over and exploited for the benefit of a small group, usually pre-existing elites.

D. The Focussing of Action

It is necessary that participatory action have a clear local focus, that organization for organisations' sake be avoided, for a number of reasons. First, the potential of local systems for developing new ways of organizing productive and other kinds of behaviour is almost certainly specific to particular local systems. It cannot be developed, or even discovered in any useful detail, through abstract, uninvolved research, or through response to

external plan strictures, e.g., strictures requiring the development of farmers' organizations. Rather, people must discover their capacities through attempts to solve specific local problems which are important to them, and which have come to be perceived as group problems.

A second, and related, reason for specific focus is that local organizations must develop their capacity to defend themselves, as discussed above. This cannot be done by simply creating a structure for this purpose. On the contrary, the particular structure must be a result of attempts at self-defence. In fact, "structure" is not an appropriate term. People must come to believe in their capacities to respond, and that belief must be reflected in a flexible readiness and capability to respond to ever-new and surprise-laden challenges. This self-confidence can only come about as a result of experience in the solution of particular problems.

Finally, problem focus is required in order to develop appropriate relationships with external sources of support. Usually, the latter will have as much need to adjust their capacities and goals to local circumstances as local people do to develop their own new perspectives. Certainly, the concept of "service delivery" is totally inappropriate. One must think rather in terms of integrated systems which are learning and growing as units. Assistance is truly mutual. There is no clear line between benefactor and client; everyone involved will play both roles at different times. But this relationship only has meaning in action; it can only have *life* in action.

A number of possible foci have been examined in the ESCAP law and participation project. These include the effects of industrial pollution experienced by farmers and fishermen, employment conditions, land tenure, and various kinds of displacement caused by both urban and rural infrastructure development and technology change. These exhibit extensive similarities in different countries, as do responses to them, and so there is considerable scope for the exchange of information and experience.

E. Research

As must be clear from the foregoing pages, the role of research in the development of law and participation processes is not easily

specified. Clearly, action research must be the core activity. There is, however, some scope for more traditional kinds of research. One area of particular importance is that concerning the interaction between formal systems and traditional techniques for dealing with conflict. Characteristically the latter have simply been swept aside as legal systems, usually colonial, were imposed. This has facilitated the manipulation of the poor by those expert in the use of the new systems.

Traditional techniques do not simply disappear though. They often linger as a part of ineffective resistance to modernizing processes by, for example, small holders. It is possible to conceive of strengthening these techniques by giving them a legitimate place in a synthesis of old and new, a synthesis of state law and people's law, to use common terms. A little research has been done in this area, but much more is needed. All too often, we find that we do not know either what has happened in any detail, or what possibilities exist for developing new syntheses. Research in this area would perhaps provide a set of possibilities to be explored in the development of participative processes. At the very least, it would caution against naive assumptions about the compatibility of the old and the new.

Research is also needed to develop information and training techniques, or to adapt existing techniques to specific situations. For example, people need assistance to learn to see personal problems as reflections of structural relationships; they must at least have some basis for weighing the efficacy of individual as against organized group responses. Successful techniques, and particularly good problem descriptions, must be presented in formats which are suitable for those with a low level of awareness and/or minimal education. And training techniques which are responsive to information presentation must be developed.

F. Conclusion

It will be seen that ESCAP's project is as yet quite immature. Several problems are salient. First, funding is needed to continue, funding for example to assist with research, training and the development of inter-group relationships (e.g., between government, legal services, and community organization groups). Second, it is necessary to develop co-operative sponsoring rela-

relationships for participative groups between governments, UN organizations and NGO's. And third, it is necessary to assist governments to find acceptable roles in the development of self-defensible participative groups, roles which will further national participative development policies.

JUSTICE REACHING THE POOR*

T. S. Misra

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Uttar Pradesh Legal Aid and Advice Board

Legal-aid Movement in India

The legal-aid movement in India is in its infancy. It aims at fulfilling an objective set out in Article 39A of the Constitution of India. Various States of our great country have based their legal aid schemes on its obligation under the Constitution and on the belief that the people of India want justice that is in accord with Indian values. Any legal-aid scheme that fails to reflect those values will surely not receive or deserve the support of Indian people.

The legal-aid movement in India has a chequered history. During British rule very little was done to provide free legal aid to the poor. The Code of Civil Procedure provided for filing suits in forma-pauperis. If the plaintiff applied for permission to file a suit as pauper and the court found on evidence that he had no means to pay the requisite court fee he could be exempted from payment of court fees. Similarly an accused standing his trial before the Sessions Court could also ask for his defence by a lawyer to be provided at the expense of the Government if he had no lawyer of his own. These provisions have been retained even after Independence. The legal-aid movement has in fact taken shape after the Independence of India. Various Governments at the State and Centre have formulated policies and programmes for providing free legal-aid to the poor. Various studies have also been undertaken. An Expert Committee on Legal Aid was appointed by an order of the Government of India dated 27th October, 1972. Its Chairman was Hon'ble Mr. Justice V. R. Krishna Iyer. It submitted its report in May, 1973 entitled "Processorial Justice to the People". This report has referred to

* Extract of the paper.

the many facets of the problem and set out numerous projects. The Government of India again constituted another Committee by an order dated 19th May, 1977. Hon'ble Mr. Justice P. N. Bhagwati was its Chairman. This Committee submitted its report on 31st August, 1977 entitled "National Juridicare: Equal Justice-Social Justice". This report formulated the blue-print of a comprehensive legal-aid system throughout the country setting out a dynamic plan of action for providing legal services to the poor and reaching social justice to the common man. With a view to implement the Report of the Bhagwati Committee the Government of India has constituted a Committee known as "Committee for Implementing Legal-aid Schemes" under the Chairmanship of Hon'ble Mr. Justice P. N. Bhagwati. This Committee is now engaged in setting up a comprehensive legal-aid programme on a uniform pattern.

The primary object of these legal-aid schemes is to ensure that no one, from want of financial resources, is prevented from securing redress from a court of law. Another object of legal-aid is to make available to the weaker sections of the community and persons of limited means, facilities for legal advice so as to bring among them an awareness of their constitutional and legal rights and just obligations and for the avoidance of vexatious and unnecessary litigation.

Legal-aid Work in Uttar Pradesh

To achieve the above objectives the Government of State of Uttar Pradesh constituted UTTAR PRADESH LEGAL AID & ADVICE BOARD ON 24th January, 1981 with Law Minister as its President and a sitting Judge of the High Court as its Executive Chairman. The Advocate General, five Advocates, Chairman of the State Bar Council and one representative each of the Scheduled Castes, the Scheduled Tribes, the Backward Classes, Women, the Industrial Labour and the Agricultural Labour, the Legal Remembrancer, Inspector General of Police and Finance Secretary are its members. Thus different shades of people are adequately represented on the Board, which has been set up to formulate and implement a comprehensive and dynamic legal aid programme in the State and to supervise and monitor schemes of

Legal Aid & Advice with a view to ensuring their effective implementation.

The Board has already set up District Legal Aid & Advice Committees in 53 districts and at two Tahsil headquarters in accordance with Legal Aid & Advice (Procedure) Scheme, 1981. High Court Legal Aid Committees have also been formed which are functioning at Allahabad and Lucknow. Competent experienced lawyers have been appointed on the panel of Legal Aid. Under this scheme free legal-aid is given to all persons whose total annual income from all sources does not exceed Rs. 5,000/-. This limitation as to annual income shall, however, not apply where the parties seeking legal aid belong to Scheduled Castes, Scheduled Tribes, Vimukta Jatis and Nomadic Tribes. No legal aid under the scheme is, however, admissible to any person who pays income tax; or is a registered dealer under the Sales Tax Act; or whose total annual income from all sources exceeds Rs. 5,000/-; or who in the opinion of the committee is otherwise possessed of sufficient means to institute or defend the case for which free legal-aid is sought.

Under the aegis of the Board 59 Legal Aid and Advice Camps in different parts of Uttar Pradesh have already been organised in rural areas and more than 15,000 cases were finally decided on the spot. In 4085 cases legal advice was tendered. Applications were also received for legal aid from numerous persons including members of Scheduled Castes and Scheduled Tribes. In all these legal aid camps legal-literacy programme was also undertaken and people were educated about various laws which have been enacted for their welfare and for the development of rural areas. To disseminate legal knowledge amongst illiterate and poor masses, the Board has published in simple Hindi and distributed NINE booklets in the series of KANOONI GYAN MALA (Legal Awareness Series). They are: (1) Regulation of Money Lending Business Act, 1976, (2) Abolition of Bonded Labour Act, (3) Legal Aid Programme—why and for whom? (4) Landless Agricultural Labour Debt Relief Act, (5) Civil Rights Protection Act, (6) Law of Maintenance, (7) Law of Guardianship, (8) Law of Marriage and Divorce, and (9) Law of Compensation in Motor Accident Cases. These booklets and other pamphlets were freely distributed in those legal aid camps.

Legal-aid Clinics

Clinical training is an important component of professional legal education and legal aid clinics offer such experience to the law student in abundant measure. Needless to say, the involvement of law schools is essential for mobilising the technical manpower available in those schools to solve the unmet legal needs of the poor. The Bar Council of India, the University Grants Commission and the Legal Aid Implementation Committee of the Government of India have recommended the introduction of law school clinics for both service and education and have promised assistance towards its establishment.

A Workshop on the Establishment of Legal Aid Clinics in the Law Colleges/faculties was organised by the U.P. Legal Aid & Advice Board in October, 1981 at Lucknow with a view to open Legal Aid Clinics at the level of Law Faculties of the Universities and Law Colleges in the State to involve participation of the law students and law teachers in the programme. A model scheme was settled and the Universities are taking steps to start Legal Aid Clinics in accordance therewith. The scheme envisages *inter alia* the following projects :

- Orientation to legal aid and law practice.
- Fact investigation and Legal Research programme.
- Legal advice and preventive legal service programme.
- Legal literacy and social mobilization programme.
- Law enforcement assistance programme.
- Law reform programme.
- Public interest litigation.
- Prison and Correctional Services programme.
- Matrimonial and Juvenile Services programme.

LEGAL AID AND LEGAL ASSISTANCE IN RURAL AREAS*

G. S. Sharma

Retired Law Professor

The main characteristics of rural societies in India, perhaps, all over Asia are as follows :—

- (a) Low level of literacy.
- (b) Limited rural occupations and avenues of employment.
- (c) Rural social customs and taboos including rural politics.
- (d) Lack of services and facilities like health, transportation, communication and banking.

It is clear from the listing of these characteristics that legal aid and legal assistance can be hardly an effective means for the first three areas. It can however, if suitably organised, as a non-governmental purely voluntary group of concerned individuals provide relief in the fourth listed area by seeing to it that the existing facilities listed above provided by the state and other agencies are properly administered to the deprived groups and individuals in the rural areas. Bunker Roy in his article on 'Village Realities' in volume 236 of Seminar says "What is preventing them (the urban based intellectuals and rural experts) from living and working in the rural areas. . . . They will see how a magistrate in the lower courts can be bought and influenced by the vested interest so that justice is denied. They will see how the police is used to browbeat the poor till their back is broken and it remains broken; how the patwari fiddles with the land record; how the co-operative society run by the higher castes swindles the government of funds or dispenses funds to fictitious scheduled castes and there is no agency that can probe into these affairs; how the government health officials use medicines to carry on private practice".

The above statement of Bunker Roy is merely a small illustrative presentation of the degree and depth of exploitation of the poor masses in rural area and then sheer helplessness. Unless

* Extract of the paper.

the carriers of law or legal-aid devote almost the whole of their time living permanently in the surroundings I do not think legal aid can handle these problems. The problems are handled effectively by the dedicated efforts of a Gandhi or a regenerated human conscience like that of Harivallabh Parikh who has been living with his wife among the tribals of Rungpur and has not only provided effective legal aid measures but has converted this tribal area into a self reliant literate and effectively functioning modern society with a regenerated human conscience adhering largely to the culture and traditions of India.

Even all the ameliorative measures cannot bring about an abiding change in the exploitative nature of societies unless the victims of exploitation get mobilised and this task of mobilisation has to be undertaken by selfless workers and by what is today called, in the language of social science, N.G.O.'s (Non-governmental organisations). Is the profession of law or atleast some of its young voteries prepared to undertake the task of such selfless voluntary work. One method could be that some leading advocates offers to adopt particular villages, spend their vacation time there alongwith their junior colleagues and living in the style of that community establish rapport with it. It is only through these participant ventures that the profession can get an idea of the nature and spread of specific exploitations in their adopted villages and formulate plans for corrective measures to meet them.

COMMITTEE VI — VIOLENCE AND COUNTERVIOLENCE:
POLICE METHODS

**VIOLENCE — COUNTERVIOLENCE:
INSTRUMENTS TO CONTAIN VIOLENCE**

N. Tiruchelvam

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Violence and Counter Violence

The propensity to violence and rapid discontinuous change are inherent in the process of development. Development would inevitably result in the disturbance of the prevailing social balance; in the emergence of new social classes and the formation of new interest groups which threaten the existing distribution of power and assets. It results in the release of forces which break up the ideological bases which had promoted a broad social consensus in regard to the prevailing order; in forms of national integration which are inimical to long-standing regional and ethnic identities. Development therefore acquires a pervasive character of instability, dis-equilibrium and conflict. The conditions exert strong pressures which tend to push a society in the direction of force and violence. Such force and violence might be used either for establishing order, suppressing conflict and reducing instability or for seeking a radical and lasting resolution of the conflicts themselves.

The purpose of this note is to examine the conflicts in society which originate in political, economic, ethnic and cultural causes, and which frequently expresses itself in violent disturbances and confrontations. The quest for human rights in Asia calls for policies, approaches and techniques directed towards minimising the propensity for violence which is inherent in political structures, developmental strategies, and programmes which accentuate inequalities and stifle the free expression of dissent. This note will also examine the factors which contribute towards accentuating the propensity for violence and counter violence in South Asian societies, and the processes, policies and techniques which may be directed towards minimising these tendencies. One of

the more acute ethical dilemmas faced by any society is the violent challenge to its political and legal institutions by those who reject its values and premises. How should a society respond to such a challenge? Should its response be one which entails the denial of the very values and processes of non-violent resolution of conflict, which form the core of the society's legal and political ideology or should its response entail the reaffirmation and re-assertion of those values? We shall endeavour to raise some issues relating to the review of policing methods relating to apprehension, detention, interrogation and other responses to outbreaks of violence.

Structural Violence

Violence for the purpose of this note includes both the violence implicit in an established system for enforcement of law and order as well as the violence of those acting outside the system and in opposition to it. The former is violence which is internalised and implicit in the structures of domination and inequality in a society, structures which are legitimised by the prevailing juridical order and socio-political and economic institutions. The character of this violence which is often defined as structural violence, will vary from society to society. Its intensity will depend on the structure of inequality in a society, the degree of disparities in power and resources between a small affluent minority and a large disadvantaged majority, and the pattern of domination needed to sustain the inequalities. Again, its repressive character will vary, depending on the success with which the prevailing ideology has gained acceptance for the system from the society as a whole. The extent of the structural violence in any society will largely determine the propensity to violence in the whole of that society, and tendencies within it to generate violent responses and create a vicious circle of violence.

Then in contrast, the society in which the propensity to violence is controlled is one which has already succeeded in reducing structural violence or is in the process of lessening it rapidly. This would mean that such a society is moving in the direction of equality, is lowering disparities in power, wealth and income, and has progressively less need for systems of coercion, suppression and intensive internal security. It could then evolve systems

which create the space and freedom for the surfacing of the conflicts already present in the existing social structures and for the expression of opposition and dissent. At the same time it could provide the mechanisms for resolution of such conflict through social bargaining, eventually leading to a rearrangement of social relations and a new sharing of power. The equity-oriented patterns of development and the systems for negotiated settlement of conflict are complementary processes which create conditions both for minimising recourse to violence as well as for managing violence in a manner which does not permanently impair the democratic policy and the framework of civil liberty and human rights.

The line of argument adduced here will lead to the general conclusion that a society with high inequality and rigid inflexible political structures which leave little room for the ventilation of conflicts and the negotiation of their resolution has a high propensity for violence, while the societies which have an equity-oriented pattern of development with systems which provide space for the expression of conflict and opposition and which evolve mechanisms for negotiated settlements of conflicts have a relatively low propensity for violence. It would then be possible theoretically to locate a developing society on the trajectory as it moves from the former high-violence societal pattern to the latter low-violence pattern. But of course the actual social and political reality is much more complex than is assumed in such a neat categorisation.

The problems of violence and development therefore manifest themselves in a wide variety of combinations resulting from the different patterns of development which are pursued. They need to be understood in relation to the specific historical evolution of each society and the balance of power between contending social forces at any given time. At least, three major clusters of development goals appear to influence these combinations — the cluster of goals relating to freedom and the political space for dissent and social bargaining, the cluster relating to equity and the reduction of disparities in income, wealth and power, and the cluster relating to growth and the increase of productive capacity. The weight of each of these in the development strategy, the equilibrium that is achieved in relation to each of these will determine

the character and extent of the structural and other forms of violence in society.

The general assumption that the absence of open violence could be the result of an efficient apparatus of repression with a high degree of structural violence is a useful point of departure for our analysis. The criterion of a social order free of violence is then not merely the absence of open violence, but the absence of violence in a deeper and more comprehensive sense. Here, violence includes the even-present threat of force in the structures of established authority, the constant readiness to use force to suppress opposition and dissent and perpetuate the existing disposition of power in society.

The Instruments used to contain Violence

In many South Asian societies there is an intense sense of conflict arising from ethnic, religious and caste agitation, and the struggle of trade union movements and revolutionary youth groups have erupted in various forms. The real dilemma which faces the State apparatus is how to cope effectively with these outbreaks, while still maintaining the democratic structure and the framework of civil rights essentially intact. On the one hand, governments have to equip themselves with the means of dealing with extraordinary situations. On the other hand, the extraordinary machinery needed has had to be so designed that while it being effective for crisis management, it would also contain built-in safe-guards to ensure a speedy return to normal government. It has to be emphasised, however, that the instrument itself becomes effective and valid only within the framework of goals and strategies which have succeeded in minimising structural violence. The controlled use of extraordinary machinery for the management of violence that is described here becomes feasible only within a larger socio-economic and political framework which has succeeded both in establishing viable democratic institutions as well as promoting structural changes which bring benefits to the majority of the population. The instrumentality for crisis management which evolved in South Asia within this larger national system deserves careful examination.

We may now turn to some of the instruments employed to contain the outbreaks of violence. The most important of these

instruments is authority to declare a state of emergency and enact Regulations which have the force of primary law.

The Public Security Acts in many South Asian countries were modelled on parallel legislation in other British colonies and empower the Governor in his discretion to proclaim a state of Emergency in the event of mutiny, riot civil commotion, or threat to the supply of essential supplies and services. Neither the proclamation of a state of Emergency nor any emergency regulation could be challenged in a court of law.

Subsequently, amendments were effected in the Public Security laws to mitigate some of the rigours of an emergency. The duration of an emergency was limited to one month, but extension was possible. To provide for continuing parliamentary control and scrutiny, provision was made to summon parliament when it was prorogued. Further, machinery was established for administrative review of detentions effected during an emergency. At the same time provision was made to enable the Government to deploy the armed forces, impose a curfew, and to take related measures to maintain security in any specific area without proclaiming a state of national emergency.

The sweep of emergency regulations enacted during the emergencies which have been declared has been such that they have resulted in comprehensive restrictions on political freedom and individual liberties. These restrictions have taken the form of prohibitions against meetings, processions and publications. Newspapers have been proscribed, printing presses sealed, and the transmission of information abroad curtailed. Freedom of movement has been curtailed by the imposition of a general curfew or by restricting individuals to their residence or from leaving the country, or from engaging in business and associating with others. Arrest without a warrant by a wide category of public officers, and preventive detention at any place designated by the Inspector-General of Police was authorised.

Prison regulations relating to humane conditions of imprisonment were suspended. Widespread powers of search and seizure have been conferred in respect of vehicles and vessels. The substantive penal law was amended to create new offences, such as

conspiracy to overthrow the government, and to impose death sentences or mandatory prison sentences to offences which could ordinarily have led to lesser sentences. Freedom of expression has been curtailed by requiring prior police permission for the distribution of hand bills and leaflets. Police officers' powers of investigation of persons, including access to persons in custody was strengthened.

The prerogative writs and related judicial remedies for the review of administrative action were suspended in respect of acts done during an emergency. Wide powers of selective enforcement and prosecution were vested in the Attorney-General, who also enjoyed the discretion to determine the court in which proceedings would be instituted. Rules against the admission of confessions were relaxed.

Emergency Regulations were also enacted to suspend the local government electoral process. Specific political parties were prescribed, political rallies curtailed and newspapers sealed. Local authority elections were suspended.

The declaration of a State of Emergency and the exercise of emergency powers are matters of intense political controversy. The critics argued that an emergency was no longer a temporary measure to meet extraordinary threats to the stability of the State. Emergency rule has been arbitrarily extended long after the conditions which resulted in the crisis had significantly altered. Although the extensions of emergencies have been justified on the grounds that now conditions of instability had arisen, the courts have been reluctant to look into these conditions. Once an emergency was declared it soon became a permanent feature of the machinery of the government. It was also argued that emergency powers were frequently employed against groups which were not the source of the immediate violent challenge to authority. A state of Emergency and the enlargement of police and bureaucratic authority had a chilling effect on the expression of political dissent. Opposition leaders and trade union officials feared restrictions on their freedom of movement, the publication of party newspapers and the mobilization of party and trade union members. The exclusion of judicial review increased the threat of wrongful arrest, and arbitrary acquisition of property and requisition of movables of political opponents. Emergency powers, they

argued, posed a continuing threat to the effective functioning of democratic institutions.

Particular concern was expressed with regard to the suspension of fundamental freedoms and the prerogative writs. They argued that certain basic human rights, such as freedom from torture and the right to a due process of law should remain inviolate even during public emergencies.

Others defend emergency powers as a necessary safety valve in a growing democracy. Despite emergency powers, peaceful transfer of power from one party to another has been possible in Sri Lanka and India. The integrity of universal adult franchise had been sustained for many decades. These achievements would not have been possible without the Public Security Laws and the ability to check violent threats to the stability of the State. Popular support for the constitutional framework is founded upon the belief that the State needs to be armed with adequate instruments to contain coups d'état and other challenges to constitutional authority.

There are some who continue to criticise the use of emergency powers, and urge the repeal of laws of public security. They argue that the manifestations of violence can be managed by a more professional police and military force without the attendant restrictions on the freedom of expression and political freedom. They also urge the need for greater safeguards during arrest, interrogation and detention. They would also like to institutionalise consultation with the opposition prior to the proclamation of a State of Emergency and an enlarged role for the judiciary in scrutiny of emergency actions.

The political processes that have evolved since independence in India and Sri Lanka have progressively accorded importance to democratic freedoms and fundamental rights. Two most significant achievements have been the continuity of universal adult franchise and the effective emergence of a multi-party system. The growth of institutions of representational democracy has been noted to be one of the factors which minimised the propensity for violence. Social and political tensions that were the sources of structural violence were submitted to the process of bargaining and accommodation within the parliamentary arena. The social

welfare and equity oriented policies surfaced out of this process. But the growth of the political parties as the principal actors in the process of decision-making had important implications for the organisation and expression of dissent. The political parties effectively appropriated 'dissent' and inhibited the evolution of autonomous trade unions, student unions etc. outside their sphere of influence and direction. The expression of dissent outside the parliamentary framework, even through non-violent agitation, was viewed with disfavour and sometimes curtailed. The Parliamentary form was soon regarded as the only legitimate mode of political discourse and agitation. But if the system is to further strengthen its capacity to minimise the propensity for violence it needs to provide space for the fullest and unfettered expression of dissent. It needs to legitimise its non-violent expression and resolution outside the framework of political parties and parliamentary processes.

Issues for Consideration

In this part of the note we shall identify some issues for consideration by the committee on violence and counter-violence. We shall also refer to the relationship between these issues and the instruments employed by the State to contain such violence.

1. What are the developmental policies and strategies in rural Asia which tend to accentuate the propensity for violence and counter violence?

2. What instruments are employed by the State to respond to violence which is oriented towards political and social transformation. To what extent does the frequent resort to such instruments result in a vicious circle of violence and counter-violence?

3. What modifications may be made to the use of emergency powers in the containment of violence so as to uphold democratic values and processes?

4. What measures may be taken to protect social action groups from the violence of vested interest groups who oppose the societal changes such groups seek?

5. How can a society respond to the revolutionary violence of groups agitating for structural change, without denying to such groups the values of procedural fairness and legality.

6. What are the problems of policing plural and multi-ethnic societies, and to what extent can the different elements of such societies be taken into account in police recruitment?

7. To what extent can community policing replace the regular police force in undertaking patrolling and related police functions during outbreaks of large-scale violence and disturbances?

8. What modifications need to be effected to methods of police operations against politically motivated violent groups to ensure respect for certain core human values and procedures? To what extent is community consultation possible before such operations are launched? What structures of accountability exist to prevent abuse of powers and incidents of "governmental lawlessness"?

9. What modifications need to be effected to police training and methods to ensure that the equal and sensitive application of the law to all elements of the society is maintained during periods of violent confrontation and riots?

10. What is the role of committees and commissions of inquiry in the process of value formation in a society in relation to the assertion of the concept of equality and the rule of law? To what extent have such processes helped articulate standards for police investigation, interrogation, detention and the redress of the victims of violence?

In preparing this working paper I have drawn on Gunatilleke, Tiruchelvam and Coomaraswamy, on "VIOLENCE AND DEVELOPMENT", and Gunatilleke, Tiruchelvam and Coomaraswamy on "THE ETHICAL DILEMMAS OF DEVELOPMENT" (Lexington Books, 1983).

APPENDICES

APPENDIX I

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 Associa-
tion (Agriculture) Convention, 1921, the Freedom of Associa-

tion 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.

APPENDIX II

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 contri-
bution 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, handi-

crafts or a related occupation in a rural area, whether as a wage earner or, subject to the provisions of sub-paragraph (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 Associa-

tion (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' organization 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.

Rural Development and Human Rights in South Asia

Report of a Seminar held in Lucknow,
4-9 December 1982

organised by the
INTERNATIONAL COMMISSION OF JURISTS
and
HUMAN RIGHTS INSTITUTE, LUCKNOW

The socio-economic structures at village level in South Asia condemn the rural poor to a life of abject poverty, intimidation and exploitation. Only a strong political will allied to solidarity among the rural poor and their effective self-reliant organisation can give them the power to combat those who dominate them, and enable them to improve and develop the quality of their lives.

The seminar brought together experts with grass-roots experience in rural development and concerned human rights lawyers to consider how lawyers and the law can contribute to the liberation of the rural poor. Discussion centred on topics such as the structures that prevent available aid and resources reaching the poor; the need to make the rural poor aware of their rights and able to assert and defend them; the importance of legal aid and legal resources and the role lawyers and other professionals can play in helping to provide them.