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# Legal Dissemination in Rural Areas: The International Perspective

Keith R. Emrich

# LEGAL DISSEMINATION IN RURAL AREAS: THE INTERNATIONAL PERSPECTIVE*

Keith R. Emrich**

It is widely recognized that the rural poor throughout Asia do not have access to adequate legal services. However, the proper focus for rural legal services is not so easily agreed upon. Only recently has a consensus begun to emerge among even legal activists.

The emerging consensus about a proper focus for legal services is based on ideas about general human rights. In effect, humanity is being forced to confront a rapidly growing body of evidence which shows that the achievement of human capacities has traditionally been prevented for most people by cultural ideas and social structures.

It is true that a historical maldistribution of opportunity has been required by limited production capacity. Too many people have always chased too few goods. Modern technology, however, makes possible very high levels of production of goods of almost all kinds. Knowledge about production possibilities is widely disseminated by information techniques which themselves are a product of the same technological thrust.

A kind of closed circle comes into being. Social hierarchies have been necessary to legitimate unequal distribution. Those who have more must be seen to have higher status; they somehow deserve it. But, once production possibilities are seen to be greatly increased, the organization of production around an assumed scarcity loses its compelling character. The status of those who make society workable under conditions of scarcity also becomes problematic. Particular status structures lose the legitimacy accorded by particular perceived levels of scarcity.

This argument has been recognized implicitly in a number of international instruments and processes. Development itself has always been seen as a means to the realization of human potential through increased opportunity. The incredible technological advances of the past 20-30 years have made it obvious that greatly increased opportunities are feasible;

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**Social Affairs Officer, Economic and Social Commission for Asia and the Pacific, Bangkok.

more people can have more. International opinion has responded by arguing for development as a right, the realization of which is eminently feasible and which is perhaps a necessary condition for the expression of other rights. The improvement of access to legal systems is an indispensable component of any attempt to realize the right to development, at least where legal systems are themselves used to allocate resources and opportunities.

## The Rural Environment

In order to develop an understanding of the kinds of legal services which are required, it is necessary to be aware of the processes which have shaped the need. Three processes have dominated change in rural Asia over the past few decades, and all present challenges to those who are concerned with poverty and distribution. These three processes are technological change, the development of national and international markets for rural produce, and increasingly centralized bureaucratic administration.

Technology, marketing and administration are mutually supportive processes. They work together to create a relatively very rapid process of general change, one which exerts very strong pressures on every single aspect of traditional rural society.

The pace of change thus induced is far greater than has been experienced in the past, and it therefore probably exceeds the normal internal adaptive capacities of traditional systems. Thus, it is necessary to consider means of countering the often unanticipated consequences of policies. The dissemination of law, so as to increase the legal resources of those who are pushed aside by change, is such a countering possibility.

A number of consequences arise as a result of the three-pronged process of change. These consequences place limits on the nature of effective legal measures, and provide possibilities for focusing available resources.

It is quite clear that concern with the problems of individuals is of little use. The problems generated by large-scale change involve very large numbers of people. Whole new interest groups are created, groups for which traditional society makes no provision. To focus on individual cases within these groups merely wastes available resources, resources which are always very limited.

In effect, the situation can be characterized like this. In normal or relatively stable times, consensus is the rule. People accept social prescriptions because they work well enough. Effective law is then best understood

in terms of the nature of compliance with it.[1] In such times the violation of social norms will be relatively rare. Violations can be treated as individual cases, with a view toward resolving disputes in such a way as to reinforce existing norms. Legal aid can then have the legitimate goal of also protecting norms, but by preventing unfair punishments or settlements, and can do so on a case-by-case basis.

During times of rapid change, on the other hand, norms will be changing rapidly, often norms as such will be effectively absent in the gap between the traditional and the emergent. In such times, a case-by-case approach to legal services benefits only those who are able to dominate legal systems with superior resources. For example, those who are able to use legal systems frequently gain a decisive advantage over those who do so only infrequently.[2]

Where attempts have been made to enforce reform legislation on a case-by-case basis, they have almost always failed. In Sri Lanka, for example, land reform legislation generated an enormous number of individual court cases. These cases imposed a disproportionate financial burden upon tenants. Landlords were able to influence dockets and decisions through personal connections. Even when cases were decided to favour of tenants, decisions were only rarely enforced; landlords had many ways to bring pressure to bear, especially because enforcement machinery was inadequate.[3]

This same general problem is found everywhere. In the Philippines, a poor client requires, on average, five times as much of lawyer's time. The poor are so numerous, and their needs for legal assistance so massive, that no system based upon single-case assistance can hope to be significant.[4] Legal aid efforts in Thailand have also generated a large number of cases, and led to the conclusion that some form of "class" legislation is necessary.[5] Similarly, in Malaysia it has been observed that class action legal aid is probably necessary to deter offenses against large numbers of the poor. The losses of each may be significant yet too small to justify

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1. Feely, *The Concept of Laws in Social Science*, 10 L. & Soc. Rev. 516 (1976).

2. Lempert, *Mobilizing Private Law: An Introductory Essay*, 11 L. & Soc. Rev. 183 (1976).

3. M. E. Gold, Law and Social Change: A Study of Land Reform in Sri Lanka 25, 38, 94, 146 (1977).

4. ASEAN. *Access to Justice: Legal Assistance to the Poor in ASEAN Countries*, V *Sessions Papers*, 30 (1979) (Conference on Legal Development in ASEAN Countries, conducted by National Law Development Centre, Ministry of Justice, 5-10 February, Jakarta, Indonesia).

5. *Id.*, p. 8.

single-case action.[6] In Indonesia, the special legal needs of the poor are not well served, even by those lawyers who are particularly committed to them, because the problems of the poor are not well understood.[7]

The ineffectiveness for the poor of formal legal systems, and of traditional kinds of legal aid, is best seen in the general context of rapid technological, administrative, and economic change. These processes are so hugely dominant that any suggestion of "fine-tuning" them by "adding," as an independent ingredient, some legal knowledge or legal aid is clearly misdirected.

Three forces of change were identified earlier — technology, centralization, and market expansion. These forces have made themselves felt through the disruption of older, more self-contained, local social production systems. In essence, improved technology makes possible increased agricultural production, the transportation of produce over longer distances, and its use for a much larger variety of purposes. This expansion of markets requires a high degree of coordination of movement, more precise timing of production decisions and actions, more rapid and reliable flow of price and quantity information, better techniques for the dissemination of knowledge and technology, and more rapid, large-scale responses to problems (e.g., pests and drought). Centralized organization has been almost universally the response to these modern needs. Information, technology, produce, and expertise all move within the channels of large-scale centralized public and private bureaucracies.[8]

Technology, markets and centralization have developed very, very rapidly in historical terms. These have impacted upon local systems prepared for only very slow rates of change: system adaptive capacities, which are the result of several thousand years of adjustive development, are swamped by a host of demands which carry with them solutions which by-pass local systems - by channelling resources directly to local elites.

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6. Sulaiman Abdullah, *The Law School in Malaysia: Its Social Responsibility and Public Interest Law* 18 Nov. 1980 (Consumer's Association of Penang).

7. Institute of Criminology. *Consolidated Report on the Progress and Finances of the Indonesian Legal Aid Assistance Programme*, 9 May 1980. (Jakarta: University of Indonesia).

8. Until recently, there was perhaps no alternative to a densely-staffed bureaucracy. In the past 10 years, though, an alternative has emerged, a startling one - the microcomputer. These have already begun to replace clerical workers and low- and middle-level functionaries in many places. Also, diagnostic soft-ware is in the process of development for many problems which are no more complex than agricultural production. There can be no doubt that it is now possible to replace large parts of agricultural administrative systems with some combination of linked microcomputers and local organization. Biotechnological development is also rapid, and offers the possibility of dispersal of many industrial processes in the very near future.

Two incompatible systems exist. The first is the original one - the repository of the culture which societies are often so concerned to preserve. It is founded upon locality, a small possible surplus, and the high probability of frequent years of inadequate production. There is a high degree of mutual interdependence. Elites need workers, and workers need the productive resources controlled by elites. All cooperate in maintenance of the socio-cultural structures which keep the production process going. People play the roles assigned them with some reliability, and there is thus sufficient acceptance of "the system" for it to work.

Modernizing processes challenge virtually every aspect of traditional systems. Technology offers productive alternatives, and so reduces local elite dependence upon local labour. The large surpluses made possible by technology require the inputs and the expanded markets brought into being by that same technology, and so establish new linkages between local, national and international elites. Local leadership structures are partly replaced by, and inextricably linked to (in mutual dependence), centralized political and bureaucratic systems. Local flexibility is lost to the imperative demands of, and dependence upon, external markets. Leadership structures lose important functions which have sustained coherent systems.

All of these challenges provide some scope for legal responses or, rather, there are a number of ways of preventing total collapse of traditional systems in the face of these responses. Most of these can be strengthened by legal components: law is only a part of any successful response.

## Law As a Response To Modernization

The rationale for a legal component in any attempt to ameliorate the maldistributive effects of modernization is extensive. Most generally, one concomitant of modernization is an increase in the sheer quantity of formal law; larger and larger proportions of total human behaviour will be covered by law.[9] Elites inevitably have better access to law than do the poor. Legal systems themselves are a cause of unequal development.[10] There are many ways in which law can be used to repress the responsive

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9. As traditional norms weaken, the need for law increases. DONALD BLACK, THE BEHAVIOR OF LAW 41, 47 (1976). In Thailand ". . . .traditional methods of social control are becoming less effective. . . ." *Access to Justice: Legal Assistance to the Poor in Thailand*, in ASEAN, *supra* note 4, at 1.

10. International Center for Law and Development. *Research Priorities for Another Development*, DEVELOPMENT DIALOGUE No. 2, at 139, (1978).

capacities of the poor. Dependence upon courts for land reform decisions has been cited above. Laws themselves are usually drafted by the powerful. Law is used to frustrate mobilization and organization, and to block access to officials and forums.[11] These uses of law by elites can be expected, and efforts to develop legal remedies for the poor must deal with them explicitly. The mere dissemination of legal information, for example, will have no impact unless positive efforts facilitate access to legal systems.[12] People also have to be helped to learn how to use what they know.

As modernizing processes proceed, their increasing scale both requires formal regulatory law and destroys local tradition by causing fundamental changes in local social systems. Tradition will not do for modern processes, and it cannot survive in local communities after profound economic and organizational changes.

These same changes inevitably increase the level of conflict at all levels. Increased levels of production raise questions about what constitutes a fair distribution of production. And the loss of effectiveness of traditional conflict resolution techniques elevates the level of chronic tension of all kinds.[13]

Commonly, bureaucracies are given discretionary powers which are intended to counter elite advantages. Bureaucrats, however, are subject to pressure for the same reasons that legal systems are. If the poor were in a stronger position to bias bureaucratic discretion in their favour, their relationship of dependence vis-a-vis bureaucracies could be changed to a more equal one.[14] This would put bureaucracies more in service of development goals and, perhaps, stabilize the need to use legal systems at a relatively low level. That is, rules which are *seen* to work are therefore not so frequently involved.

## Some Legal Services Activity

This section will describe some of the legal services "activity" in Asia. The word activity is used here in a qualified way. More often than not activities fall far below what practitioners regard as minimum levels for success. Comparison with the foregoing discussion will show this.

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11. J. C.N. Paul & C. J. Dias, *Law and Legal Resources in the Mobilization of the Rural Poor for Self-Reliant Development* (N.Y.: International Center for Law and Development, August, 1980).

12. L. NADER & H. F. TODD, JR. (eds.), THE DISPUTING PROCESS: LAW IN TEN SOCIETIES 34 (1978).

13. *Id.* at 9; D. Jacobson, *Scale and Social Control,* in *Scale and Social Organization* 184 (Fredrik Barth (ed.) Oslo, Norway: Universitetsforlaget, 1978).

14. Dias & Paul, *supra* note 11, at 10, 12.

Political environments are such as to severely restrict the expression of the ideas of legal activists and others who work with the poor. This section then will both describe ongoing work, and present the suggestions of "workers" as to what ought to be done and why.

## INDIA

Rural legal assistance in India takes many forms. There is an extensive and relatively well-funded, national-level programme. It is partially integrated with, and provides assistance to, state-level programmes. Many NGOs of various kinds are also concerned with the legal problems of the groups they work with. The dissemination of legal knowledge is a core feature of all of these processes.

### National Committee for Implementation of Legal Aid Schemes

The most important component of legal services in India is the National Committee for Implementing Legal Aid Schemes. The Committee began its work in 1980 under the chairmanship of a Supreme Court Judge, P.N. Bhagwati.[15]

The Committee has produced a conceptual outline for legal aid, and a structure for the implementation of legal aid. The outline presents seven necessary and interrelated features. First, legal aid should be preventive rather than focused on litigation. Second, legal awareness must be promoted among potential beneficiaries, to enable them to pursue their own rights and interests. Third, services must be presented in a proactive manner; law must go to those who need it, not wait for them. Fourth, the poor must be organized to pursue rights, and those who would assist them (e.g., students) must be organized in a complementary manner. Fifth, research into the particular legal problems of the poor is essential. Sixth, the judiciary and administrative services must be encouraged to adopt a legal aid orientation. Seventh, the implementation of legislative and administrative resources must be monitored continually.

Legal aid is structured into state programmes. Each state has a State Board of Legal Aid and Advice with a judge as Executive Chairman. Board membership is broad, composed of lawyers, political leaders, administrators and members of various client groups: the poor, women, tribal people, untouchables, etc. Sub-committees are formed at district and local levels. An income eligibility criterion has been established (Rps.

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15. This discussion is taken from Shri Justice P.N. Bhagwati, *Report: Legal Aid to the Poor*, mimeograph, no date.

5,000 per year), but it is not applied to cases involving members of disadvantaged groups.

In 1980-1981, the Committee dispensed about 1,200,000 rupees for a variety of functions. Among these were case expenses, legal literacy programmes, publications, seminars, and legal aid camps.

Legal aid camps are an interesting innovation. The intent is to make a comprehensive set of legal services available in an area for a short period to try to resolve grievances on the spot. Three objectives are addressed. Legal awareness is furthered by lectures and by observation of the camp process. Advice is given to those who come with problems. And some disputes are carried through to resolution.

If camps can be made a permanent process they promise to be highly effective, although careful evaluation is necessary. The numbers reached by camps are large. As many as 5,000 people may attend one of them. The State of Uttar Pradesh had held 5-6 camps which disposed of 16,000 cases.

### Anand Niketan Ashram

The Anand Niketan Ashram, led by Harivallabh Parikh, has been in operation in Gujarat state since 1949. It pursues a comprehensive development programme now covering 1,000 villages of tribal people.

Open courts (Lock Adalat) have been an integral part of this project from its inception. Their main function has been the resolution of intra-group conflict, or conflicts between the poor. These have had the effect of reducing the frequency of this kind of conflict. More traditional, and more violent, forms of conflict have been replaced to some extent by interpersonal bonds which reduce the potential for conflict.

However, Lok Adalat had limited capacity to deal with external factors. The increased solidarity generated by amicable dispute settlement still required formal means for harnessing it to the resolution of problems endemic to a wider oppressive socio-political environment.

In 1978 a Scheme for Legal Support to the Poor was established under the sponsorship of the Ashram. It was supported by volunteer work and financial assistance from Oxfam. The latter totalled 14,318 pounds from 1979 through 1983.

The Scheme helps tribals to use the formal legal system. Cases cover such areas as tenancy, debt, land fragmentation, and crime. From April 1978 to April 1979, 259 cases were begun. As of May 1979 there had been 133 favourable judgments, 7 adverse judgments, and 119 were pending.

As is usually the case, it is virtually impossible to evaluate the project with available material. Certainly, it seems sound in theory and structure. It is a rare serious and formal effort to develop legal assistance on a firmly prepared ground of group solidarity. It is linked to larger legal assistance structures. And it recognizes the comprehensive and special nature of the problems of poverty. A good evaluation would no doubt yield some useful material of relevance to legal assistance efforts everywhere.

## INDONESIA

In Indonesia the concept of "structural legal aid" has been developed in the 1970's to distinguish legal problems associated with development and change from those associated with the "charity and humanity" which have motivated more traditional forms of legal aid. Its pivotal goal is "to develop the legal consciousness of the public so that they will be aware of their rights as human beings and Indonesian citizens.[16]

Consciousness is taken to mean also consciousness of actions which can be taken. The activation of awareness requires "political, economic and social struggle, perhaps even a change in cultural values."[17] Legal aid is basically an educational process which makes legal awareness meaningful by embodying it in a framework of potential actions.

Structural legal aid is oriented to the process of national development. Development is a process of structural change. Economic structures change, of course; this is intended. But it is not so widely recognized and accepted that with economic change must also come political, social, and cultural change. Development is, in a sense, a struggle for new resources. It thus generates conflict; people disagree about what constitutes an acceptable allocation of these new resources. Structural legal aid can be a means of "accommodating structural conflicts at local levels."[18]

Legal aid developed rapidly in Indonesia in the last years of the 1970's. By 1981, there were 62 legal aid organizations.[19] Prominent among these

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16. ASEAN, *Indonesia*, *supra* note 4, at 3. Unless otherwise indicated my discussion is taken from this reference.

17. *Id.* at 5.

18. Mulyana W. Kusumah, Legal Aid as a Form of Participation in the Development Process 8 (paper presented at ESCAP, Workshop on Social Problems of Low Income Groups: Some Legal Approaches, Bangkok, 17-24 February 1981).

19. *Id.*

20. The list is taken from an LBH publication for which identification has been lost.

was the Lembaga Bantuan Hukum (LBH: Legal Aid Institute). LBH was founded in 1970 with both government and foundation assistance. It was intended as a pilot project to develop a model for legal assistance throughout Indonesia, a goal which has been realized to some extent. In 1978 branches were established in Medan, Surabaya and Semarang. LBH's activities are broad. (See the Lubis article in this volume.)

## MALAYSIA

The situation in Malaysia is rather polarized with respect to legal assistance to the poor, polarized in a rather paradoxical way. On the one hand, there is a Government Legal Aid Bureau (LAB) which is highly professional, relatively well-funded, and which has very wide geographical coverage. At the same time, the mandate of the LAB is limited by a very narrow conception of the functions of legal assistance. Assistance is given on a single-case basis, and a large proportion of resources are used for family problems. The LAB is but little concerned with the quality of legislation as such, or with the manner in which administrative discretion is expressed.[20]

Alternative approaches have been suggested by the Consumer's Association of Penang (CAP), the Bar Council, and from within the Law School of the University of Malaya. The latter[21] has been attempting to get law students involved with legal assistance for some time. In 1980, the Law Alumni announcement of its intent to provide legal aid drew a protest from the LAB. The Law School has offered a course in consumer law for a number of years, and this course is strengthened by a strong relationship with CAP. CAP has recently strengthened its legal capacity by the addition of lawyers to its staff. "Consumption" can be very broadly interpreted to include, for example, the consumption of agricultural inputs.

Alternative courts (night, weekend, neighbourhood) are needed to give better access to the poor, and to increase contact between the poor and lawyers. The poor do not have adequate information about their legal rights, and law students can play a useful role in the development of information programmes. Class action is probably necessary as a deterrent to exploitation. Access, information, and class action are no doubt mutually supportive.

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21. ASEAN, *Access to Justice: Legal Assistance to Poor in Malaysia, supra* note 4.
22. The following is taken from Abdullah, *supra* note 6.

## THE PHILIPPINES

The Philippines has the largest and most varied legal assistance programme in Asia.[22] Four distinct approaches to legal assistance are in operation. These are a court-assigned counsel system, a public attorney system, a voluntary legal aid association, and university programmes.

### Court-Assigned Counsel

The court-assigned counsel system has been a minor part of the Philippine legal aid process. In particular, it has had little relevance to development problems. Criminal cases have taken the bulk of the very limited resources. (Perhaps ten percent of criminal defendants are represented under the system, and the total funding available for courts of first instance is only 420,000 pesos.) The record has been poor, with a high proportion of guilty pleas. Client dissatisfaction is high.

### Public Attorneys

Seven national offices provide legal services. Among these are services to cultural minorities, police and military personnel, and those with agrarian problems. Only one, the Citizens Legal Assistance Office (CLAO) provides general assistance to the poor. In 1979 CLAO had 95 regional and district offices and a staff of 395 full-time lawyers. It is charged with providing representation to the indigent in all civil, administrative, and criminal cases, except those involving agrarian reform.

CLAO uses a flexible set of income and wealth criteria to determine eligibility. Most of its clients come to CLAO on their own initiative. Others are referred by public assistance agencies, and by CLAO's own prisoner screening programme.

From 1973 through 1978 CLAO had received 146,492 cases and terminated or disposed of 109,274. Of these fifty-seven percent were criminal, thirty-seven percent were civil, seven percent administrative. Eighty percent of the criminal cases resulted in acquittal, dismissal or conviction on reduced charges. In 63.1 percent of civil cases CLAO clients won or received substantial benefits.

### University Programmes

Several university colleges of law in the Philippines operate legal aid clinics. The University of the Philippines programme is typical of these

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23. The following is a partial summary of ASEAN, *Philippines, supra* note 4.

clinics. It is supervised by a faculty member and staffed by law students as a mandatory part of their training. Students perform the entire range of activities necessary to the development and resolution of cases. The university also supports its legal aid efforts with a Barangay Legal Education Seminar series designed to inform people of their legal rights.

### Voluntary Legal Aid

There are a large number of voluntary legal aid groups in the Philippines. These include the Integrated Bar of the Philippines (IBP), the Citizen's Legal Aid Services of the Philippines, Inc. (CLASP), Women Lawyer's Circle (WILOCI), and the Free Legal Assistance Group (FLAG). There is also an ongoing legal aid project in Cebu supported by the Asia Foundation and the Integrated Bar of the Philippines. The project coordinates and works with various legal and community associations in bringing "developmental" legal services to a variety of groups.

For the most part legal aid in the Philippines, as elsewhere, has been limited to the problems of individuals. At the same time, as is suggested by the Asia Foundation Project, the concept of developmental legal *services* has been advanced by many Philippines legal activists.

Developmental legal aid does not try to minimize the importance of the problems of the individual poor. Such problems *are* poverty. At the same time, it realizes that more access to existing structures and processes is no adequate response to these structures and processes being biased in favour of the wealthy and powerful. Developmental legal aid is more concerned with "public rather than private issues (and is) intent on changing instead of merely upholding existing law and social structures, particularly the distribution of power within society."[23]

Law dissemination activities are a vital component of developmental legal aid in the Philippines. Para-legal personnel are one way to link the dissemination of legal knowledge with the ongoing activities which make dissemination meaningful. Community-based health care, for example, requires para-medical people to link community needs, which emerge *as a result* of participative health care, with larger health care systems in an interactive way. So too does emergent *group* legal awareness require a clear and active link with the legal structures which structural legal aid aims to change - to make it more truly "developmental."

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24. J. W. Diokno, *Developmental Legal Aid in Rural ASEAN: Problems and Prospects*, in *Para-Legal Training Seminar* (the Philippines). The Table of Contents of this seminar is given in Appendix I.

The Law Center of the University of the Philippines is an important source of legal dissemination. It conducts a variety of programmes. Among these are community-based adult legal education, and a series of publications. Appendix II describes the Law Center. Appendix III is the Table of Contents of a publication devoted to teaching human rights in school systems. Appendix IV describes the Law Center publication programme.

## SRI LANKA

Little has been done as yet in Sri Lanka to make the legal system more accessible to the rural poor. However, the need for improvements has been recognized at a high level. Dr. Nissanka Wijeratne, a Minister of Justice, has commented upon discrimination against the poor. He advocates a participatory approach to dispute resolution.[24]

The particular needs of the rural poor have been identified. Central to any effort to overcome the disabilities of poverty is a combination of knowledge and organization. Organization without the capacity to analyze situations, in a context of possible action, can have no responsive direction. Knowledge without organization cannot overcome the complex and systemic nature of poverty. The poor are disadvantaged in many ways.[25]

There is a government legal aid programme in Sri Lanka, but it is tiny,[26] and without the capacity to pursue group or class interests.[27] An effort is underway to introduce the teaching of human rights throughout Sri Lanka's school system.[28]

Dr. Neelan Tiruchelvam has developed a comprehensive model for responding to the legal needs of the poor in Sri Lanka.[29] His model is keyed to a five-point criticism of the government legal aid programme. First, as mentioned above, it addresses only individual claims, and usually only those of an interpersonal nature; it has no interest in group problems related to structural inequities. Second, it is limited to formal legal arenas, and so cannot utilize traditional forces of social control. Third, it ignores

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25. Report of the ESCAP/Marga Institute Expert Group Meeting on the Use of Experience in Participation/Law and Participation 1-2 (Colombo, 15-19 February 1982).

26. S. Tilakaratna, Human Rights Activism in Relation to the Peasant Producers (paper given at Asian Coalition of Human Rights Organizations Meeting, Bangkok, 16 December 1983).

27. Gold, *supra* note 3, at 92-93.

28. Neelan Tiruchelvam, Group Advocacy and the Legal Needs of the Poor: Towards an Alternative Model 1 (paper presented at the Workshop on Social Problems of Low Income Groups: Some Legal Approaches, ESCAP, Bangkok, 17-24 February 1981).

29. University of the Philippines, *Asian Newsletter on Human Rights Documents*, Dec. 1982, at 4.

30. This discussion is taken from Tiruchelvam, *supra* note 27.

the potential inherent in legal advice about the structuring of small scale transactions and the organization of interest groups such as cooperatives. Fourth, it is reactive only. It does not seek to develop a clientele through, for example, the dissemination of information and the use of volunteers. Fifth, the quality of services is uneven because of staff inexperience and paternalism.

These criticisms suggest alternatives. Emphasis should be upon collective problems and interests. Legal aid should be proactive; it should seek out clients. Action should be expanded to legislative and administrative arenas. A variety of kinds of assistance should include counselling, transaction structuring and organizational assistance. The delivery of services should be participative rather than paternalistic.

## Conclusion

There is a large gulf between the ideal of equitably distributed legal access and the reality implied in the several criticisms of existing national structures presented in this article. In all of the countries discussed, the actualities of legal access fall far short of the most basic requirements; this gap is likely to be growing in most Asian countries.

More often than not, administrative fiat has been the response to increased autonomy of consolidating markets and determining technology. That is, the response to increasing autonomy in these latter two alienating processes has been to increase the alienating character of a third. "Bureaucracy" moves ever closer to Kafka's nightmare in response to mindless markets and a technological intelligence which becomes increasingly artificial.

An appropriate dissemination of legal knowledge and services can be seen as a balancing addition to this triad. Proactive anticipation of what is clearly implicit in current developments, and the possibility of class action, could increase the probability of more equitable alternatives. These effects would be felt in some interesting ways.

First, if people were more poised for group legal action such action would be less frequently required than current perceptions might suggest. Much activity which contributes to maldistribution of all kinds of entitlements[30] would be inhibited if a legal response by affected groups could be expected. This, of course, accounts for another kind of "proaction" - that of resistance to the extension of law to the poor. Still, if such extension were somehow brought about it would be felt in such areas as technology adoption, the design of irrigation schemes and the allocation of inputs.

A second major effect of equitable access to law would be a reduction

in the load upon bureaucracy. Much of the rationale for bureaucracy is, after all, based on assumptions about its proactive nature. And its failure to exercise its proactive mandate on behalf of "clients" is in no small part the result of the maldistribution of recourse to law.

One cannot, of course, overlook the implicit or tacit functions of bureaucracy. If it did not dance in response to strings pulled by the economically and politically powerful, bureaucracy would have a much different form than it does in most developing countries. And this is the real problem. Legal access is not something which can be simply added to a system. Rather, to improve legal access, and all other kinds of access, it is necessary to confront issues of power distribution.

# APPENDICES

(taken from POPLAW Series, 1983(1), Teaching Practical Law; Focus: Human Rights).

## Appendix I

### PARA-LEGAL TRAINING SEMINAR PHILIPPINES

**Table of Contents**

# Appendix II

## UNIVERSITY OF THE PHILIPPINES LAW CENTER

The Law Center, starting as the Continuing Legal Education and Research Center of the College of Law, became a statutory body on June 15, 1964 when Congress approved its Charter, Republic Act No. 3870 (later amended by Presidential Decree No. 200, issued May 27, 1973). A unit of the University of the Philippines, it enjoys the academic freedom guaranteed all institutions of higher learning by the Constitution of the Philippines.

The Law Center pursues three general objectives, namely, the advancement of legal scholarship; the protection of human rights with emphasis on the improvement of the legal system and the administration of justice; and the assumption of leadership in overcoming the criticism directed at professional competence and responsibility.

In carrying out its mandate, the Law Center undertakes: (1) technical studies and researches in law, with emphasis on Philippine law, particularly on projects for reforms in the judiciary, public administration, and civil rights protection; (2) law institutes or study programmes for continuing legal education; (3) legal studies and researches on request from the various agencies of the Government concerned with law reform; (4) publication of studies, monographs, research papers, articles, and other works and writings on law, with special emphasis on those related to its general objectives and to distribute them at cost to government agencies, judges, lawyers, government administrators and other interested parties.

It also performs all other acts as may be necessary for the achievement of its objectives and functions, in accordance with the rules and regulations of the University including the granting of research awards, prizes, scholarships and fellowships.

The Law Center maintains a policy of working with other institutions and agencies, both government and private; local, national, regional as well as international. With a growing network of cooperating organizations, such as the Integrated Bar of the Philippines, it brings its services to all sectors throughout the country. The legal profession remains its main concern but the Law Center is also committed to undertake programmes designed to "popularize the law" among non-lawyers including teachers, peasants, workers, village leaders and the youth.

Operating through three main Divisions - Research and Law Reform, Continuing Legal Education, and Publications - the University of the

Philippines Law Center carries out its work of encouraging and supporting legal scholarship, promoting professional competence and responsibility, creating general awareness of the law, raising legal literacy and contributing toward the improvement of the Philippine legal system.

# Appendix III

## TEACHING HUMAN RIGHTS IN SCHOOL SYSTEMS

### Contents

# Appendix IV

## EDITOR'S COMMENT

This issue launches a new line of publications by the University of the Philippines Law Center. The POPLAW Series, as this will be called, marks the institutionalization of a significant commitment to "popularize" the law.

"Popularizing the Law" is a program that aims to equip all Filipinos, from all walks of life, with basic knowledge and skills for purposeful citizenship participation in community and national life.

It started as a modest project five years ago (1977) under Law Dean Dr. Irene R. Cortes, and Law Center Director Froilan M. Bacungan. An initial seminar-workshop was held in cooperation with "grass roots" organizations, namely, the Katipunan ng Bagong Pilipina (KBP), Aniban ng Mga Manggawang Agrikultura (AMA) and SIKAP, a youth organization.

As requested, project coordinator, PurificacionV. Quisumbing, designed and focused the curriculum for the first two seminars on human rights.

The general objectives of the first two seminars were to:

"1) Develop awareness of the various human rights guaranteed by Philippine Laws and the correlative obligations of citizens;
2) Provide participants with a basic knowledge of law as an instrument for the enforcement and implementation of human rights;
3) Acquaint them with the fundamental procedures of the judicial and administrative systems; and
4) Develop a sense of involvement in efforts toward community and national development."

Quite apart from the fact that these two seminars were conducted while the country was under a martial law regime, the uniqueness of these two projects was perhaps in the active role of participants in organizing and running the seminars. The largely unschooled participants produced gabays or "guidelines" based on their discussions and understanding of the lessons. These materials were then used as teaching materials in the "teach-in" sessions which they conducted in their respective communities all over the Philippines.

With this background, it seems fitting that this maiden issue focuses on human rights.

But what can be expected from the POPLAW Series? As envisioned, it will consist of several components, including Teaching Practical Law,

Law and Mass Media, and Barangay Legal Education. In turn, each component may focus on a particular aspect of law.

Initially, we will continue publishing the Teaching Practical Law component, of which this is a first issue. The subsequent issues will most likely feature Teaching Practical Law materials on Family Law, Access to Justice, Consumerism, and followed by others. While primarily intended to provide materials for use in the formal school system, these can also be used for non-formal, out-of-school types of teaching situations.

This first issue is divided into four integrated parts: First, the conceptual framework of Teaching Practical Law; second, the pedagogical devices and approaches on how to introduce human rights concepts in social studies lessons, and third, materials that were produced by pupils during the pilot teaching sessions at the U.P. Integrated School.

The fourth part contains some basic legal reference materials on human rights, namely, an illustrated primer on Constitutional Rights and Obligations, and the UN Universal Declaration on Human Rights.

Together, these materials constitute an introductory "teaching kit" on human rights in the Philippine context.

Purificacion Valera-Quisumbing
Editor-in-Chief