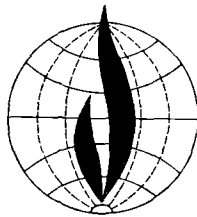


MASTER

CONCLUSIONS AND RECOMMENDATIONS  
of the Seminar on

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

held in Lucknow, India  
4 - 9 December 1982



INTERNATIONAL COMMISSION OF JURISTS  
and  
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International Commission of Jurists  
and  
Human Rights Institute, Lucknow

2, number 808

CONCLUSIONS AND RECOMMENDATIONS  
of the South Asian Seminar on  
RURAL DEVELOPMENT AND HUMAN RIGHTS

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Preface

by Niall MacDermot, Secretary-General of  
the International Commission of Jurists

|  | <u>Paras</u> |
|--|--------------|
| I Socio-economic structures at village level<br>and organisations of rural workers | 1 - 23       |
| II Agricultural and economic policies: their<br>effects on the rural population    | 24 - 43      |
| III Land tenure and land reform  | 44 - 60      |
| IV Landless labour and bonded labour   | 61 - 92      |
| V Tribals, migrants and other disadvantaged<br>minorities                          | 93 - 122     |
| VI The role of women in development  | 123 - 144    |
| VII Population control and rural development                                       | 145 - 153    |
| VIII Health Services   | 154 - 164    |
| IX Violence and counter-violence   | 165 - 180    |
| X Legal aid and legal resources for the rural<br>poor                              | 181 - 199    |

## 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 es 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 grassroots 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 cooperation between concerned lawyers and grassroots 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 cooperation. 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. It is hoped to publish later in the year a full report 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 Coordination Committee for Development Projects (ICCO, Netherlands), and the Netherlands Organisation for International Development (NOVIB).*

*Niall MacDermot  
Secretary-General*

*International Commission of Jurists  
Geneva  
March 1983*



I. SOCIO-ECONOMIC STRUCTURES AT VILLAGE LEVEL, AND ORGANISATIONS 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 nominal 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 group, and when unable to find work live in the most abject poverty.

6. In India the rent forming 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. Around 1967, after the green revolution, 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 dependance of the poor upon them in their capacity as money-lenders.

7. In addition to the traditional and local system of high caste landowners 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 improverished.

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

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\* 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, sharecropper or small owner-occupier, and who works the land himself, with the help only of his family or occasional outside labour.

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;
- 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 dependance 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 Gramodaya, 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 not had the same impact as in Sri Lanka.

### 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. 7

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 counter-vailing power to withstand the oppression and discrimination to which they are subject, and to help them to 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 cooperatives. 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 associations 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, grass-roots 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 cooperatives 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 promote rural development through distribution of 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 30 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, agricultural pricing policies are dominated by industrialists engaged in the manufacture of inputs (e.g. pesticides and fertilizers) and finished products (e.g. sugar). In almost all countries in the region the state is the bulk purchaser 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). For example, construction of dams and other irrigation projects often displace large numbers of people or deprive them of their existing rights to land, water, etc., without adequate compensation and resettlement.



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 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. In the event, traditional 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 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 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 have 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 coordinated by and be answerable to 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 cooperative 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 bearing 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. It was argued that commercial development would result in a more efficient use of natural resources from which all would benefit in time, but in practice it has contributed to the disintegration of local communities rather than their improvement. 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 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 forms 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 merchant farmer money-lender, at a usurious rate of interest. The labourer is 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

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, including even

sexual abuse of women, false records of indebtedness, intimidation, lack or inadequacy of machinery for implementing legislation for their protection, lack of 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 palemod 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 grass-roots 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 grass-roots 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 in 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 as far as possible be 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 cooperative 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 initiatives for rural development 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 (Pradeshuya 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 to 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 include 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, age, 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 solely 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.

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

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

## Tribals

99. 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 government 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.

100. 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. 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 is taking place. With the onset of commercialisation demand for forest land has increased and the tribals are being 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 and villagers living in the forest protested against the mismanagement of the forests. A movement 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 1,200 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 was the exploitation of migrant workers employed in 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 chikan workers in Lucknow, who embroider garments and other textiles, were cited as an example. Groups facing displacement due to mechanisation of activities they have been traditionally engaged in are 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 food, 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 planting or 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 explained to the migrant labourers and distributed 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 in 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 many 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 percent 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. 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 participation 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 reemployed. 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 the phenomenon 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 for export 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 lowering drastically the levels of infant 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 resources 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 medicine at the cost of the traditional systems. This tendency should be checked and traditional systems of ayurved, homeopathic and unani medicines should 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 practice 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 practiced 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 practiced 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, innovative 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 commissions 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 para-legals, preferably recruited from the rural community. Para-legals 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 cooperate 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.

36. 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.

37. 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.

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

39. 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 cooperation 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 countervailing 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.

94. 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.

95. 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 cooperatives 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 impoverishment 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.

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*Report of a Seminar in Penang, December 1981.*

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*Available in english, Swiss Francs 10, plus postage.*

s in which human rights of the rural poor can be adversely affected by pro-  
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growing awareness that development policies which ignore the need for greater  
social justice will ultimately fail was the key-note of the discussions at this confer-  
ence. It brought together economists, political scientists, and other development  
experts together with members of the International Commission of Jurists and its  
national sections. Included in the report are the opening address by Shridath  
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Commission, a basic working paper by Philip Alston reviewing the whole field,  
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