

THE ROLE OF LAW IN THE SOCIO-ECONOMIC DEVELOPMENT OF SOUTHEAST ASIA*

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INTRODUCTION

The subject matter as well as the scheme of this South-East Asian and Pacific Conference of Jurists is a most historic and fitting one. This is specially true with respect to the work assigned to the Second Committee, which deals with the problem of economic and social development among the countries of Southeast Asia. In the minds of the hungry masses of Asia, most of the universal, and even of the specific, legal concepts and institutions have had little or no meaning at all not only because any consideration of these things has been obscured or blotted out completely by the pangs of hunger and insecurity with which they are constantly plagued, but also because these concepts and institutions have so far failed to respond sufficiently to their needs. For the first time, an international juristic body of great competence and prestige undertakes a practical study of how socio-economic problems affect the Rule of Law in this part of the world and how the principles of the Rule of Law may be better applied for the solution of these problems. Nothing can be more fitting and timely.

THE PROBLEMS ARE INTER-RELATED

It is fortunate that the work of the Committee combines both economic and social development. The two are so closely related to each other that the problems of one can neither be understood nor properly treated without relating them to those of the other. As a matter of fact, as will appear evident in later portions of this Report, economic and social problems cannot be fully understood nor effectively remedied without relating them to the political order under which they exist.

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THE LAND PROBLEM

Multi-Dimensionality of the Problem

The land problem is probably the most widespread and most basic problem in South-East Asia today. While the land problem in the various countries of South-East Asia may have different forms and stages of development at the present time, it may be stated that for most of these countries at least, the land problem has undergone, or is still undergoing, the following stages:

First, the problem was originally a purely economic one. Most of the available land was concentrated in the hands of a few landlords, while the great masses of peasants either had very little or no land at all, and were therefore compelled to till the land of the landlords as tenants. As time went by, the landlords became richer and richer, while the tenants became poorer and poorer.

Second, the problem extended to the social sphere. Since the landlords were wealthy, they were able to send their children to school and to develop their intellectual capacities fully, while the tenants remained illiterate and ignorant. The wealthy and educated landlords enjoyed the highest social prominence while the poor, illiterate peasants lost all social standing.

Third, the problem extended to the political sphere. Because of their economic, intellectual and social advantages, the landlords acquired great political power, while the peasant masses became virtually impotent politically. At this stage, democracy and the Rule of Law was either non-existent or stood in a very precarious situation.

The various aspects of the land problem — economic, social and political — continued to react one upon another so intimately that in time what was formerly a cause became also an effect, and what was formerly an effect became also a cause. Wealth and intellectual superiority enabled the landlords to acquire great political power. In turn, great political power enabled the landlords to acquire more wealth and greater intellectual superiority.

In this situation, almost every attempt to solve the land problem is caught in a vicious circle which, in many instances is itself imprisoned in another vicious circle. For instance, in order to improve the condition of the peasants one must reform the government. But how can one reform the government, unless one first improves the condition of the peasants so they can vote intelligently and freely? Again, a scheme to increase the farmers' income requires additional educational programs for the farmers.

Educational programs require further financial outlays from the government. These in turn require increased revenue. But how can the revenue of the government be increased if the income of the peasants, who comprise the masses, is not first increased?

Justice and Technology

Considering the complex nature of the problem, three principles at least suggest themselves: *First*, several measures will have to be undertaken together; *Second*, among some of the measures to be undertaken, a practical sequence of means must be observed; and *Third*, all reform measures must be such as to stimulate as much as possible the spirit of self-help among the peasants. However, the various measures necessary for socio-economic reform in general, and for agrarian reform in particular, may be classified under two headings: *Justice and Technology*.

Many people tend to emphasize the priority of technology, because the technological problems are more obvious and tangible and, therefore, appear to be more comprehensible and urgent.

Moreover, the more intellectual advocates of technological priority reason out in the following manner: The question of justice deals with the division of the cake. But no matter how the cake is divided, it is not sufficient for all. Hence, priority must be given to increasing the size of the cake. Once you make the cake big enough, the question of justice will disappear of itself.

On the other hand, other people claim that while the question of justice is less tangible, less obvious, and perhaps more perplexing, it is really more fundamental and urgent and must be given the first priority. They claim that since human wants are limitless, the cake will never be sufficient for all. However, assuming that the cake can be increased to a size sufficient for all, unless the question of justice is first solved, greater discontent will result even with greater production. They say: "You speak of greater production. Greater production for whom?" They point to the increasing poverty and discontent in the world, in the midst of increasing progress brought about by technological advances.

But the more direct challenge of the advocates of the priority of the question of justice is the question: Can production really be increased unless justice is first made to govern the relations of men? It is pointed out that only justice (in the sharing of work and profits) can provide sufficient and lasting incentives for the parties to work and produce, while technology is merely an instrument or tool which the parties decide to grasp and use only after they are properly motivated. Of what use is a

tool when man has no incentive to use it? This, it is claimed, is the ultimate reason for the so-called resistance of the peasants to technological changes. Thus, the advocates of the priority of the question of justice claim that unless justice is first assured for all, production can never be increased in a free society.

It would seem that at least in the *logical* order, the question of justice must have precedence and priority. But in the *practical* order, some technological measures have to be undertaken at least simultaneously with social measures or measures to insure justice.

In either case, the importance of the men of the Law is not less than that of the economists in socio-economic development. In what special manner may the principles of law be made to contribute more efficiently to the promotion of justice as an important factor in the socio-economic development of Asian communities?

Social Justice in Socio-Economic Development

With the constantly increasing density of population of Asian communities, the aspect of the question of justice which has assumed the greatest importance is that of *social justice*. Unfortunately, social justice, both as a concept and as a program, has not been sufficiently developed in many of these communities. This fact constitutes one of the greatest obstacles to socio-economic growth.

The task that faces the men of the Law is how to update this concept of social justice in its practical aspects in order to enable it to respond to present needs, and to help in formulating, adopting and implementing social justice programs for the greatest possible social and economic development of Asian society.

Need to update the concept of "property"

In this connection, it will be important to re-examine legal concepts on *property*, particularly the right of ownership of land.

In most countries of South-East Asia, the right of private property is generally recognized. Heretofore, however, relatively little effort has been taken to define the precise limits or boundaries of such right. It seems obvious that the extent of the right of ownership of property depends, among other things, on the nature of the property involved. Thus, at least in most communities, the right of ownership of a toothbrush would be well-nigh absolute. On the other hand, no one would generally lay claim to private ownership of the atmosphere.

Somewhere between the toothbrush and the atmosphere is land. What is the extent of the right of ownership which any person can claim over land? When land was plentiful and people were few and the needs of individuals and society were simple, the question of the precise extent of the right of ownership over land was rarely put in issue. But with the increase of population, the relative shortage of land, and the complicated needs of modern society, the question has become very important.

Land has many elements: molecules of soil, nitrogen-fixing bacteria, the rain, the sun, the seasons, and other elements of the physical world, for which no man can claim merit or responsibility. Moreover, land is a permanent thing that has existed and been used long before the owner was born, and will continue to exist and be used by others centuries after his death. Finally, land constitutes such a basic and fundamental need of man and society.

This being the case, it is obvious that any individual right over land can neither be perpetual nor absolute, that such right is not merely very limited, but its exercise should always be subject to the regulation of society in order that the land should properly serve its purpose.

Some people claim that the measure of the right of ownership of land should be the amount of labor and/or capital which a person puts into it to make it productive and some returns therefor. From this a corollary is drawn: That if the owner has taken back the amount of his labor and/or capital from some one else who tills the land, and the said owner does not continue to invest labor and/or capital in the land, his right over that land decreases and dwindles until sooner or later the person who continues to work the land acquires a greater right over it. This is the philosophical basis of the slogan, "Land to the Tiller". It assumes more and more force even as more and more tillers find it virtually impossible to acquire a modest area of land while a few landlords own vast tracts of land which they do not work.

In some countries of Asia the foregoing principles underlie (albeit vaguely) land reform measures undertaken by the government, such as those providing security of tenure for that tenant, reduction of agricultural rent, and compulsory transfer of the land in ownership to the tenant. But in the minds of many people in Asia, the traditional, absolutist concept of the right of land ownership is still prevalent or at least justified. At the same time, the legal and philosophical basis and justification of reform measures have not been clearly and convincingly laid down by lawyers and philosophers in relation to fast-changing needs and exigencies. This constitutes a big obstacle to land reform.

Need to re-examine the concept of "just compensation"

Related to the question of the extent of the right of landownership is the concept of *just compensation*, both as to its amount and its form. Just compensation would naturally depend on the extent of the right of the owner of land. But in some jurisdictions just compensation is fixed on the assumption that the landowner enjoys absolute mastery over the totality of land. Thus, land is most often overpriced.

Moreover, in some jurisdictions, the amount of just compensation recognized for the expropriation of land is determined by the *market price* thereof. Is the market price of the land necessarily just? Is it not often an unreliable determinant of just compensation — just as unbridled free competition has often resulted in grave injustice?

Then, there is the other question as to whether just compensation for the expropriation of land in a land reform program should always be in cash. The urgent, and sometimes desperate, need of land reform is recognized in many areas in South-East Asia. But the situation of the government in these areas is such that it is impossible for it to pay cash. Moreover, wholesale payment in cash will result in grave inflation. Is it just or unjust for governments to impose payment in bonds or shares of stock?

Who is entitled to the unearned increment?

A man acquires a piece of land in the suburbs. He does nothing to the land for twenty years. After that, the market price of the land rises two hundred times. Will the owner be entitled to the whole increase in the price of the land, considering that the increase in its price was not due to any effort on his part, but was due to the growth of society in that area? Should not at least the greater portion of that increase go back to society? In many progressive communities of the world, this is no longer in issue.

But this is not so in many countries of South-East Asia. In many urban areas here, it is absolutely impossible for vast numbers of ordinary workingmen to acquire a decent piece of homelot by diligent and honest means. Is this not due to the backwardness of the social order whereby a few people enrich themselves at the expense of millions of their fellowmen, and are at the same time protected by antiquated legal concepts and principles governing property rights in land? Is it not time that the men of the Law laid down limitations and qualifications to such rights and to such related maxims as "To the owner of a thing belongs the fruits thereof?"

Who are entitled to the net profits?

Another legal issue that needs re-examination, particularly in Asian society, is the issue of the right to the net profits of any enterprise. It is not easy to determine the right formula that would give a just wage to the laborer and just return for capital. However, on the assumption that labor is given its corresponding remuneration, that the commensurate portion of the capital has been returned and sufficient interests and insurance against risk have been paid, and management has been given a just remuneration for its labor so that finally a net profit is realized, the question is: Who are entitled to the net profit?

Traditionally, the net profit has been assigned exclusively to the capitalist. But is this just? Since the net profit is arrived at after deducting the remunerations for all the human factors involved, the net profit seems to represent only the bounty of nature. To whom does the bounty of nature belong? Does it not belong not only to the capitalist but also to the laborer and the public in general?

Traditional recognition of the right of the capitalist to the whole of the net profits has resulted in wide cleavages between the very few very wealthy and the very many very poor in Asian countries, as well as in the dangerous pace in which the wealthy are becoming more and more wealthy and the poor more and more poor. In this framework, the millions of workers are limited to the low ceiling of what is described as "decent living" while the few capitalists know no limit to their "delicious" living. This has resulted in paralyzing disincentives for the masses and wasteful consumption for the wealthy. Over-all production is really hampered.

Some claim that big profits for the capitalists are necessary for capital formation. It seems, however, that cooperatives and mutual funding, aside from being more in keeping with democratic principles and those of the Rule of Law, have rendered unnecessary the accumulation of huge amounts of capital in the hands of a few people.

But if the net profit should be shared between the capitalist and the laborer or among the capitalist, the laborer and the public, in what precise ways and by what specific means should it be distributed or channelled to benefit them? Whether it should be thru increases in the wages and returns to capital, or through the so-called profit-sharing schemes, or through taxation and government public welfare projects, or any other means, will be a constant challenge to the ingenuity, wisdom and sense of justice of the men of the Law, particularly the lawmakers and the legal philosophers of any given country.

Limitation to successional rights

To what extent has a person the right to make dispositions of his property that will take effect when he is no longer in this world? The undesirable effects of the unbridled right of inheritance are obvious: descendants of a rich family enjoying greater and greater wealth in relative idleness, while those of a destitute family sink deeper and deeper in misery despite honest efforts to overcome their poverty. Does not every child born in this world, whether he is born in a palace or in a slum, deserve an equal opportunity to get the just and commensurate returns for his efforts?

Understandably, a man should have the right to dispose of *some* of his property effective after his death, particularly for the support and education of his minor children. But in most countries, successional rights have already been limited considerably. Should not such rights be lessened in many of the countries of Asia—and should not a portion of the estate of a very wealthy decedent be disposed of by society for unfortunate and handicapped children and other people in general? If so, what are the most practical procedures and schemes?

Against some of the views that may be implied from all the foregoing, the accustomed owners of property claim that such views will destroy all incentives to acquire property and to produce wealth. On the other hand, the have-nots say: "You few speak of incentives for yourselves who have much property. But how about incentives for us, the majority, who are deprived of all hope of acquiring property no matter how much we try?" Definitely, proper incentives must be given to all. Too much incentive for one group will demoralize the other, will make the other unproductive, and *vice-versa*. Hence, the only answer is justice for all, to insure incentives for all, to make possible greater production for all. And dispensing of justice is one of the fundamental functions of law and legal institutions.

IMPORTANCE OF SOCIAL ORGANIZATION

As an Instrument to Secure Justice

The interpretation of justice in concrete cases is extremely difficult not only conceptually but also in actual enforcement. As a matter of fact, it is universally admitted that perfect justice cannot be attained in this world. It can only be approximated if the parties involved are properly matched. When one party is very much stronger than the other, chances are that grave injustice will be committed. And when a big disparity of strength exists among large segments of society for a long time, the danger

of a dictatorial regime, either of the tyrannical or benevolent type, becomes imminent. Hence, it is essential for democracy that the various segments of society be more or less equitably balanced.

How can the downtrodden working masses of Asia acquire the needed balancing strength? They have one obvious advantage: their number. But numbers can be put to real advantage only through organization. Hence, it becomes obvious that group organizations are essential if the Asian masses are to secure justice in relation to their landlords and their employers.

As an Indispensable Condition of Development

The need for social organization does not exist merely for the negative purpose of fighting injustice. Social organization has a positive and a far more significant role for the developing countries.

It is relatively easy to understand that in order to break the vicious circles involved in the socio-economic-political problems plaguing the developing countries, new forces must be generated from within or from without, or from both. But in either case, the indispensable condition for real and lasting reform consonant with the Rule of Law is that the power structure in the nation must be reformed in such a manner that the proper allocation of power is given to each of the various sectors of society. Unless the structure of power is reformed in this manner, any form of remedial force — whether it be technological measures to increase production or cultural programs or foreign aid or any other — will only aggravate the situation. In this sense, the reformation of the power structure through social organization is the most important requirement for real reform and development.

Even with a government of competent and well-meaning officials, the main problem in most countries in Asia lies not so much in the apex (the leaders) as in the base (the people) of the social pyramid. This is specially true if the problem is viewed from a democratic standpoint whereby the government is supposed to derive its authority from the governed, whereby the government is supposed to be merely the instrument or tool of the people. In many instances the tool, the government, is much better organized than the people, the supposed wielder of the tool. Thus, the tool tends to dominate the people. In this situation, the Rule of Law is in grave peril.

The problem seems to lie in the fact that the head, the government authority, cannot receive a reliable and complete picture of the realities surrounding the various members of the body politic, nor can it command the action and support of these members because the cells and tissues

thereof are neither cohesive nor coherent, are not organized, are not organically sensitive and alive. The head sees the fingers in the fire. True, the eyes see the situation, just as the government authority may "see" the situation through government agents, the so-called eyes-and-ears of the central authority. But there are sensations which only the cells of the fingers can feel and transmit. There are certain aspects of reality which only the people concerned can feel and express — like the rice farmers in relation to the rice problem, and businessmen in relation to business problems. But how can the peasants, the workers and other groups *crystallize* and *express* and transmit their sensations — their needs and aspirations — if they are not organized, are not grouped together in active and responsible organizations?

Moreover, in the field of implementation, there are certain functions which only certain "organs" can perform, or which cannot be performed without the help of these "organs" — like rice production and the application of modern methods of rice production in relation to the rice-farming groups, or like the implementation of educational policies in relation to schools and students. It is necessary, therefore, that the various sections of society be organized not only so that they can transmit the apprehension of the realities surrounding them, but also so that they can receive the policy-decisions of the government authority and act properly in the implementation of such policies.

Unfortunately, perhaps due to their colonial or authoritarian historical background, many peoples of Asia have learned to depend and rely too much on their government for the solution of their problems and for the satisfaction of their needs. In many instances, therefore, a "one-type-celled" animal, the government, is relied upon to meet the complicated and sophisticated needs and problems of modern society. It is not realized that these needs and problems need a "multi-type-celled" organism with specialized "organs" for their satisfaction and solution. There is thus a need for a number of intermediate or private organizations in the body politic, — among peasants, workers, teachers, businessmen, industrialists, etc. — having various specialized natures, aims, methods and boundaries — trade unions, cooperatives, parent-teacher associations, chambers of commerce, etc. — sometimes interlocking or overlapping with each other in some respects, but always regulated and conditioned together by central authorities. And these private bodies and organizations must be strong enough to render the indispensable help, balance and checks that the government needs. This seems to be the best way to insure against dictatorial tendencies of government and to stabilize and strengthen the Rule of Law in a given society.

It is true that the intermediate organizations referred to also run the danger of becoming masters rather than the tools of the individuals that created them. This has happened specially in the more advanced countries. But this is no reason to reject the need for these organizations. The danger can be avoided by the continued vigilance and self-information of the individuals that constitute them.

Thus, the right of association, embodied in the constitutions of most democratic countries, has very well become not only a right but also a duty, not only a simple weapon of defense as it used to be in the past, but also a complicated art and indispensable condition for national growth and development in the modern era. Moreover, social organization is not only an indispensable condition but also a generator of a new force that will help break the vicious circles already alluded to.

All this is not to say, however, that organizing the peasant masses is an easy and speedy solution. On the contrary, efforts in this regard have oftentimes proven extremely difficult and at times discouraging. For organizing peasants involves a lot of baffling problems. These problems principally arise from the ignorance, utter poverty and loss of self-reliance on the part of the peasants, from the lack of understanding of the peasants on the part of would-be leaders, from the powerful resistance of landlords, and from the opposition, jealousy and indifference of government officials who are in many cases landlord-dominated. But with all these problems, the most practical "trigger" of reform seems to lie in the initiative of private leaders to rouse the peasant masses from their lethargy, open their eyes, awaken hope in their hearts and stimulate their energy.

For this task, or to help in this task, the men of the Law are specially fitted and equipped. For in the final analysis, law is organization, social organization. Law, either through legislative statutes or private contracts, articles of incorporation, or constitutions and by-laws, is the setting-up of a framework of human relations or of social organization. And the excellence of such a framework depends on the amount of justice and efficiency that it embodies. All these — order, justice, efficiency, organization — are ingredients of Law and characterize the training of the men of the law.

PROBLEM OF TECHNOLOGY IN SOCIO-ECONOMIC DEVELOPMENT

Need of Adaptation

After discussing the problem of justice we now come to the problem of *technology*.

Since the West is very much advanced in technology, the almost universal tendency in Asia is to copy the technological patterns of West-

ern countries. This tendency carries its own dangers. Very often, technological programs (like agricultural research and extension, crop-processing as well as the construction and operation of industrial plants), designed and guided by experts from Western countries, have failed to attain their ends and in some countries have created even bigger problems. The failure is often caused by the inability to *adapt* Western techniques to the peculiarities of the climate, the soil, the culture, the social patterns, the attitudes, etc., of the land and the people of the Asian country where these programs are undertaken.

In the first place, technological programs can never be considered apart from the people by whom, among whom, and for whom they are undertaken. And since people are affected, and in some respects determined, not only by their physical and geographical environment but also, and more significantly, by their cultural traditions and social situations, technological projects and innovations must consider and be adapted to all of these factors in order to succeed in really helping, rather than in merely exciting, the people concerned. It would seem that technological concepts, processes and methods as imported from the West, on the one hand, and the social and cultural habits and traditions of the Asian countries, on the other hand, will have to make some mutual adaptations.

But even in the purely physical sphere, the need of adapting and modifying Western technological patterns cannot be over-emphasized. For the variations of physical reality are well-nigh infinite. Thus for instance, in the effort to increase agricultural production through scientific research, one of the biggest causes of failure is the lack of proper appreciation of the countless variations in the character of the soil, of the water supply, of the temperature, of the quality of sunlight, of types of pests, etc., that characterize each and every farm within a given country or region.

The countless varieties and forms of physical reality in the agricultural field alone are impossible of compilation and assessment without the help of the peasants themselves, without mutual information and checking between peasant farm and laboratory. Moreover, the need for the help of the peasant is continuous, because scientific research cannot afford to stop and the gradations towards scientific perfection are interminable. But considering the great number of peasants, they cannot provide the needed help nor can they collaborate for any length of time without organized action on their part.

Moreover, if peasants participate in the actual research and experiments, they will easily understand the results of such research and experiments. They will not only actually learn in the process scientific agriculture at first hand but the so-called problem of "resistance to change" on

their part will disappear. So, even in purely technological and scientific activities, peasant organizations are indispensable.

Industrialization

All the developing countries of Asia want to industrialize. Even for the lasting success of land reform, industrialization is necessary. In the first place, the landlords whose lands will be transferred in ownership to the tenants will need to invest their money in industry. In the second place, the rural population is expected to increase indefinitely; and unless many people from the farms can be absorbed in the factories, sooner or later, there will not be enough land for all.

But the question is: How should industrialization *start* in the developing countries? Some leaders in the developing countries, being fascinated by the latest industrial developments in the developed countries, have the tendency to transplant in their own countries the big, tangible and imposing results of modern industry *without attending to the causes and pre-conditions that gave rise to those results*. So, their attempts to industrialize either have failed or are doomed to failure.

Since most countries of Asia are agricultural countries, it would seem that the best way to start industrialization is to put up, or encourage the putting up of those plants that process agricultural and local materials. In this way, agriculture and industry will stimulate and strengthen each other. By buying the products of agriculture, industry will give the farmers the purchasing power to buy industrial products. By buying industrial products, agriculture will ultimately increase the market for its own produce. Again, by absorbing more and more the production of agriculture, industry would be striking at the main root of unemployment and underemployment thru the stimulation of activity in rural areas, and would at the same time be providing new jobs in the factories themselves.

Once a stable start is made, the economy of the country will develop; and step by step, the industrialization of the country could advance to further stages.

PLANNING

Must Ultimately Come from the People

Planning is well-nigh universally accepted as necessary for the development of emerging nations. But the first question that arises is: Who should do the planning? The immediate answer would be: the government. But since in a free society government is government by the people, planning should ultimately, albeit indirectly, come from the people

themselves. Even with a very efficient government, the active participation of the people is necessary. But the participation of the people is impossible without the medium of organized action; that is, through intermediate organizations of the various sectors that make up the nation. Thus, again, the importance of social organization comes to the fore.

Under this concept, the planners and implementors will be expected not so much to *persuade* the people about a plan the former concocted from on top, as to *derive, compile, systematize and refine the ideas and aspirations that ultimately come from the people themselves*. This, of course, would involve difficult processes including mass organizations. But it is of the very essence of democracy. The other way (of a plan formulated by a few of the elite who will then persuade the people about it) is not only presumptuous and liable to fail in the long run but is also a mild or benevolent species of dictatorial rule.

Planning usually embodies two things: objectives to be attained and means with which to attain said objectives.

The matter of laying down the objectives ultimately boils down to the question of: What kind of life do the people really want? For certain specific *desiderata*, like industrial plants, highways, amusement, etc., will change the ways of living of a community. These things will bring not only benefits but also disadvantages affecting the very culture and character of the people. The people should crystallize and express what they ultimately want.

Need of Adaptation and Originality

In Asian countries, the kind of life the people want will be characterized heavily by certain spiritual, humanistic and cultural values. Specifically, in the matter of industrialization, the clash between materialistic and spiritual-humanistic values will be felt. A blind adaptation of Western types of industrialization and modernization may result not only in disaster to the Asian countries concerned but also deprive the world of whatever positive and original contribution such countries would otherwise be able to make towards a better socio-economic and political order. For the pattern of industrialization in the Western countries has not been without its grave defects, vices and disadvantages. And it is that the objectives laid down in the plan respond to the best aspirations of the people. Otherwise, discontent or turmoil and even the disappearance of the Rule of Law may result.

Thus, it is not enough that the economic planners in the Asian countries are graduates of, say, the London School of Economics of Wharton College or the Massachusetts Institute of Technology of the U.S.A. They

should also be completely familiar not only with the physical resources and characteristics of their country but also the culture, the social problems and patterns, the political habits and the aspirations of their people.

As to the means to attain the ends sought, they should be such as to stimulate and utilize the resources and energies of the people themselves. The determination of what these means should specifically be will require deep insight and patient study of the situation, psychology, sense of value, environment and resources of the people.

NON-MATERIAL FORCES

It has been observed by many that the profit motive was the principal force that impelled people in the economic development of the West. While this may or may not be true, it is certain that the profit motive does not always and to the same extent stimulate people's efforts in the countries of Asia.

For the stimulation of the energies of the people of Asia, certain moral and psychological forces must be taken into consideration. Among these forces are those of leadership, nationalism and culture.

Leadership

In many communities, the traditional concept of the good leader is feudal, paternalistic, and/or dictatorial. As such, it is conducive neither to the growth of democracy and the Rule of Law nor to the lasting economic progress of these communities. In these communities, the concept of the good leader is confused with the concept of *genius*, *benefactor* and *hero*. The good leader is supposed to understand all the problems of his people, discover the solutions to these problems, apply the solutions, and save his people. But in a democratic and free society the good leader merely helps the people understand their own problems, helps them discover the solution to their problems, and inspires them to solve their own problems — with the result that the people are impressed not so much with their leaders as with their own selves.

Under this concept, the function of the true leader in a free society is not so much to dictate or to command as to absorb the image of the people, purify that image, throw it back to the people, and inspire them with it to rise above themselves. The principal function, then, of a true leader is to exert moral power to mobilize the energies of the people.

Nationalism

The world "nationalism" has acquired a variety of meanings. But as applied to most countries in South-East Asia today, the underlying

substance of nationalism is the desire to re-discover, re-identify and perfect one's national individuality. The problem of nationalism has been aggravated for these countries by the defects of long periods of colonial domination during which they were subjected to the overwhelming impact of political, social and cultural forces and institutions from the West. After acquiring their freedom and independence, the people of these countries found themselves dislocated, confused and hurt. Thus, while in certain cases the spirit of nationalism may temporarily assume some perverted forms, it must be treated with utmost sympathy and understanding.

For the desire of national consciousness and national identity is as natural and necessary as the desire for personal individuality. An enlightened spirit of nationalism will provide not only a sense of purpose and direction for national planning but also a tremendous force for its implementation.

Moreover, true nationalism is the only true basis of internationalism, just as one can neither love nor understand other nations unless he first has love for, and understanding of, his own. On the other hand, the adaptation of national self-interests to the interests of the whole world order — for the very good of the individual nations and individual persons themselves — is a continuing problem both for the developed and the developing nations not only of Asia but of the whole world.

Culture

Even in the purely economic sphere, people remain to be the most important factor. This is, of course, even more true in the social and political fields.

The most decisive and potent element in people is character. And the most important factor that forms the character of people is the nation's culture. Thus, the need of promoting the natural, healthy and vigorous growth of national cultures to enrich and strengthen the people's lives and energies cannot be overestimated.

Most countries of Asia possess old cultures of their own, but others have yet to crystallize and develop theirs. In either case, the strong impact of other cultures, particularly when brought about by outside political and economic domination, has created serious problems of identification, harmonization, assimilation, and even of self-direction. While most nations in Asia cannot go back and imprison themselves in their own past, these nations are faced with the difficult problem of choosing the outside influences that enrich and of rejecting those that corrupt or smother. To what extent and in what ways government and private or-

ganizations shall regulate and/or guide the cultural development of the nation is a continuing problem for leaders under a Rule of Law.

Closely linked to the problem of culture is the problem of education. Even for purposes merely of increasing the literacy rate, the problem in Asia is tremendous. Yet, the educational problem of Asian countries is not merely that of teaching people to read and write. The more significant problem is that of giving the educational program in each country the proper direction. What specific objectives should the educational program aim at? What should be its specific contents? These are the most far-reaching questions.

It seems that the educational program of a particular country should help promote, and at the same time be guided by, the cultural development of said country. It must be geared to the specific needs and resources of the country. Moreover, it should respond to the legitimate and positive nationalistic sentiments of the people and at the same time promote a consciousness of the need and ways of international cooperation.

INTERNATIONAL MUTUAL ASSISTANCE

Must be Based on Justice

To many countries of South-East Asia still in the process of development, the question of foreign aid or international mutual assistance is important. But some people believe that in order that foreign aid will produce lasting benefits, it should stand and operate on a proper basis.

It would seem that in the case of former colonies in relations to their former colonial masters, foreign aid is a matter of strict justice, a matter of reparation for wrongs done and problems arising from colonial administration. The former colonial master occupied the territory of the former colony by force and against the will and sovereign right of the people therein. While the former colonial master usually claimed that it came to develop and educate the people it conquered, few right-thinking men today would accept this as the truth. For several decades the colonial master directed the educational, economic, social and political affairs of the colonized people. While it is true that the latter profited in some respects from the colonial administration, the truth is that the principal consideration of the colonial power was its own economic, military and other interests. And in cases of conflict of interests, the interests of the colony were most often subordinated or sacrificed to those of the colonial master.

Thus, for instance, in the economic field the agricultural or primary industries in the colony were developed to provide raw materials for the

factories of the colonial power. In return, manufactured goods were brought to the colony which was developed as a market for the industrial goods of the colonial power. After a time, the colonial power secured a strangle hold on the marketing of the colony's raw materials and on the colony's economy. At the same time, a strong appetite for finished goods was developed among the colonized people while these people were not taught or encouraged to produce these goods.

Again, in the political order, an overly centralized, and even dictatorial and/or paternalistic, government was set up for the convenience of colonial administration and colonial exploitation.

Subsequently, independence was granted to the colony. While independence has always been a right of the colonized people, it was granted in effect as a favor. Moreover, the terrible effects of the colonial administration on the social, economic, cultural and political life of the former colony remained like the lingering fall-out of an atomic bomb. It would seem only just that the former colonial master help solve the great problems and remedy the evils brought about by its interference in the rights and life of the people of the former colony.

International Social Justice

But beyond the idea of reparation for evils caused, there may be considered in our modern age a new consideration in international relations; namely, the principle of *international social justice*. With the constant shrinking of the world brought about by technological and other factors and with the increasing interdependence among nations, there is hardly any position or action of one nation that will not affect the other nations of the world. And just as the individual in any given society has a continuing need for such society and has, therefore, the obligation to contribute positively to the good of society, so also has every nation the obligation to contribute positively to the welfare and good order of the world community.

Under the same principle, all countries of the world, specially the richer ones, have the obligation to contribute their share to the solution of international problems and for the promotion of justice, peace and prosperity among all nations. Likewise, there is need of laying down rules for the protection of the weaker and poorer nations against being taken advantage of by the richer and stronger nations, analogous to social justice legislation in individual countries. This is specially true in regard to international trade.

What these rules shall be, who shall draft them, how they should be implemented, are continuing problems facing the jurists and other scien-

tists of today. But the solutions and answers must be found soon if we are to avoid another global turmoil, just as the corresponding answers and solutions to the problems of social justice had to be found in order to prevent revolutions in the individual countries.

Once foreign aid is made to stand on the basis of justice, there will be respect and dignity on the part of all the countries concerned; and where there is respect and dignity, lasting mutual benefits will result.

Need to Re-examine Methods of Aid

It has been claimed that the manner by which foreign aid is given has further endangered the Rule of Law in many recipient nations. It is pointed out that in many emerging nations of South-East Asia, governmental power has been actually concentrated through ostensibly democratic means in the hands of the few landlord-capitalists who continue to dominate the peasant masses. Channelling foreign aid through the government of the recipient nations merely increases the power of the landlord-capitalist to further dominate and exploit the peasants and workers, widens the gap between the two classes and actually makes difficult or impossible the proper growth of democratic institutions. While there may be problems involved in channelling foreign aid through private groups and institutions, the problems, disadvantages and dangers caused by exclusively government-to-government methods would justify a thorough re-examination of the issue.

Moreover, it has been claimed that foreign aid programs have on many occasions defeated their own purpose due to "strings" attached to the aid. These "strings" sometimes take the form of conditions requiring purchases of needed goods from the donor nations, or of political and/or military concessions, or of so-called "grocery aid", i.e., finished products, to insure a continuing market for the donor nation.

Real Help Redounds to the Benefit of Giver

On the other hand, some people have made the claim (supported by historical data on the former relations among the presently developed nations) that when an underdeveloped country is really helped to stand on its own feet, to be economically developed and independent — far from decreasing its demand for the products of the helping nation — its economic growth will increase such demand (for the desires of men are infinite) and its capacity to pay for such demand. On the other hand, if the underdeveloped nation is maintained in a state of semi-backwardness, the necessity of constantly helping such nation and its incapacity to absorb

greater imports will outweigh the apparent short-term advantages of preserving it as an "underdeveloped" market for the donor nation's goods.

SUMMARY

1. The economic, social and political problems in the countries of South-East Asia are so inter-related that neither of them can be truly understood or remedied without viewing it in the light of the others.

2. The land problem is probably the most widespread and most basic problem in South-East Asia today. Its economic, social and political aspects react on one another so intimately that what was once a cause has now become also an effect and what was once an effect has become also a cause. This situation almost always imprisons remedial measures in a vicious circle.

3. Reform measures refer either to questions of justice or matters of technology. While both are necessary, the question of justice is more basic and must have priority. However, some technological changes may be undertaken simultaneously with measures to remove injustice.

4. Social justice is the more important aspect of the question of justice in Asia. In order to remove obstacles, to, and promote, socio-economic development, social justice in its practical aspects must be updated by:

- a. Setting down, clarifying and philosophically justifying more limitations to landownership, as well as the rights and obligations of the tillers of the land;
- b. Correspondingly readjusting the concept of just compensation for the expropriation of land for redistribution to the landless tillers;
- c. Defining the relative rights of the owner of land and society with respect to the unearned increment of land;
- d. Defining the relative rights of the capitalist, the laborer and the public with respect to profits;
- e. Adjusting the relative rights of the decedent, his heirs and society with respect to large estates left by deceased persons.

5. In order to attain justice, the people, in general, and the working masses, in particular, of South-East Asia must organize into private associations of various forms.

6. Private or intermediate organizations are needed not only to prevent or remedy injustice, but also, and more importantly, to provide health and vigour to the body politic under a democratic regime.

7. The most basic obstacle to reform today in most South-East Asian countries is the inverted power structure in each country whereby a few landlord-capitalists hold most of the economic, social and political power while the vast masses of peasants and workers are destitute, exploited, degraded and impotent.

8. Absolutely indispensable to true and lasting development is a reformation of the power structure in such a way that each segment of society will get the allocation of power it deserves. The peasants and workers, who deserve the greatest but actually have the least power today, must get organized to acquire the needed balancing strength. This involves great obstacles, but a start could be made by helping and encouraging leaders to "trigger off" the reform.

9. Technology from the West must undergo a lot of adaptations to local material, physical, psychological, social, cultural and political conditions in order to really help the peoples of South-East Asia.

10. In order to be successful, industrialization in most countries of Asia must start in the main with processing local agricultural and other products and materials. Industry and agriculture must mutually help each other. This way, industry can develop on to more advanced stages.

11. Planning is necessary for the development of emerging nations, but the planning must ultimately be done by the people through organized action. The people themselves should also provide as much of the needed power as possible for the implementation of the plans.

12. The need of good public administration and competent and trustworthy public administrators is acute in South-East Asia.

13. To motivate South-East Asian peoples for socio-economic betterment, purely material incentives are not enough. Certain moral and psychological forces must be promoted, harnessed and properly guided. Among these forces are those of leadership, nationalism and culture.

14. Foreign aid must be based on justice — strict justice in the case of some nations, and international social justice for all nations.

15. Existing "government-to-government" and other methods of giving aid have proven to be self-defeating, and should therefore be re-examined. The full and long-range development of South-East Asian nations will benefit not only these nations but the aiding nations as well.

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