

INTRODUCTION

WORKSHOP ON ACCESS, DEVELOPMENT AND DISTRIBUTIVE JUSTICE

Legal Problems of the Rural Poor in Malaysia
[A Study in Differential Access Needs of the Poor]

by

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INTRODUCTION

It is trite to observe that a logical prerequisite to the effective and efficient organisation of a comprehensive legal services program is research into the legal needs of the poor. No such study preceded the setting up the Legal Aid Bureau in Malaysia.* The practical urgencies of poverty may render research, as a condition for the establishment of the service, a luxury - especially in the context of an under-developed country; but there is little to justify the neglect of "evaluative research" as a phase in systematic program development which would contribute to further planning and adjustments and, ultimately, program refinement.** The allocation and distribution of public services as ad hoc responses, unguided by research, often results in its non- or under-utilisation. Insofar as the objectives of the giver are unattained and the recipient unaffected by the impact of such services, the allocation of scarce resources to these services is a waste.

Plans for the extension of the Legal Aid Services

* The Bureau was set up in 1970 under the Emergency (Essential Powers) Ordinance No. 39 of 1970, subsequently replaced by the Legal Aid Act 1970. Initially, civil proceedings in respect of which aid could be given were confined to maintenance cases. Since then, the limited jurisdiction operations have been expanded steadily, and now include as well, workmen's compensation, small estates distribution, accident, and money lenders cases and maintenance, custody, divorce and property proceedings in Muslim Courts. Legal advice is available in respect of proceedings for divorce and custody, tenancy and hire purchase matters. Legal Aid in criminal cases is limited to advancing pleas of mitigation on behalf of a convicted indigent.

** See generally on this, Clarence J. Dias, Research on Legal Services. 1975 Washington U.C.Q. 147, 155.

program into rural areas in Malaysia make it more urgent that ever for research into legal needs of the rural poor. It is hoped that this study, based on a survey of three rural poor communities in Malaysia, will provoke others to add to the hitherto sparse literature on law and poverty.

Broadly, the study was designed to identify factors which impeded the rural poor from seeking and securing the resolution of legal problems they confronted through the legal process. Ultimately the study helped evaluate the efficacy of the legal system by providing incisive insights into the accessibility of the legal system to poverty communities. More specifically, the primary purposes of the study were to:

- (1) determine the types of legal problems confronting the rural poor person;
- (2) identify the categories of problems he perceived as "legal";
- (3) ascertain the typical problem - solving methods and institutions he employed and their effectiveness;
- (4) identify categories of problems not perceived as being "legal" which are amenable, nonetheless, to resolution through the legal process;
- (5) assess the perception of the poor of the possible effectiveness of legal intermediaries on their behalf in specific problems;
- (6) identify factors which heightened legal perception and problem - solving ability.*

* This study was modelled on a similar study in America by the staff of the Duke Law Journal, see Note, Legal Problems of the Poor, 1969 Duke L.J. 495; see also Dias, supra, note 1 at 155.

Knowledge of other existing agencies in the rural setting was tested to ascertain the extent to which access by the poor to public service programs was the result of a failure of communication. Insofar as the poor resorted to their own "network of aid" (e.g. community leaders), the ability of these 'aiders' to perceive problems as legal and to make referrals to proper redress - sources was tested. Finally it was sought to determine why some were not only cognisant of problems as legal but were, as well, active pursuers of their remedies, whilst others (by far the majority), had neither perception nor attempted a resolution of their problems.

Choice of the Rural Poor for the Study

The rural poor formed the focus of this study primarily because they are, in the main, the intended recipients of the legal services program. The means eligibility is based on a disposable income of \$750 per annum* (or \$62.50 per month), or, under additional discretionary powers, \$750 to \$3,000 per annum (\$62.50 to \$250 per month)** About 90% of households with

* Legal Aid Act, 1971 (L.M. Act, 26) S. 15(2) (b).

** Ibid., S. 16(1) (b) - The Schedule prepared by the Legal Aid is as shown in Appendix I.

monthly incomes below \$100 and 76.2% of households with incomes between \$100 and \$200 are to be found in the rural areas. 82.6% of the households in Peninsular Malaysia with incomes below \$200 are located in the rural areas. About 34% of the rural households have incomes below \$100 per month, whilst only 9.4% of urban households are in this category. Overall, the mean monthly income of rural households is less than half the mean monthly income of \$435 of urban households.***

The Sample Communities

There were three communities surveyed.****

Group A

This consisted of a poor Malay community located in southern Johore deriving its livelihood from fishing. 80% (or 160 out of 200) households of this community, which was located about $\frac{3}{4}$ of a mile from the main town centre (Mersing), were interviewed. More than 75% of the sample earned between \$90 - \$120 per month. The rest earned \$130 - \$150 per month. The vast majority

*** Mid-Term Review of the Second Malaysia Plan 1971-1975, Government Printers, 1973 at p. 3.

**** The survey was undertaken by my former students Miss Lim Yee Lan, Miss Zainun Ali and Miss Aziah Ali and formed the basis of a project paper completed under my supervision and submitted by them to the Law Faculty, University of Malaya in part fulfilment of their LLB degree course. To these three ladies who unflinchingly trudged the rural villages gleaning information, I am deeply indebted. My thanks are also due to the Law Faculty for use of their papers. See Lim Yee Lan, Legal Needs of the Poor; Zainun bte Ali, Legal Needs of the Poor, and Aziah bte Ali, Legal Needs of the Poor Community in Kuala Kedah: An Assessment, (all unpublished dissertations, 1975, University of Malaya).

were employees of boat-owners and daily paid according to the tonnage and kind of fish caught. The negligible few who owned their own boats earned between \$80 - \$150 per month.

The sample community was barely literate. About 89% were educated up to Primary 4 Malay Education. The rest had reached Primary 6.

The town has a hospital, served by two doctors; a family planning clinic staffed by a nurse, who gives advice to housewives on family planning. A health centre looks after the health of the people. It provides services at two levels - a staff nurse and her assistant provide maternal and child health care and school health services for example, vaccination and immunization against tuberculosis, polimyelites and small-pox; while an overseer, with the help of assistants, looks after environmental sanitation, and health officers check on safety of food sold in the market for human consumption.

Other government and quasi-government departments include a MARA office, and the Agricultural Department; fishermen are looked after by the Mersing Fishery Department, staffed by a licensing clerk who issues licenses and receives licensing fees, and, an enforcement officer to see that conditions attached to licences are not violated. A Fishermen Association, a statutory body situated in the same building, is headed by a manager and a general clerk. A quasi-governmental body, the Lembaga Kemajuan Ikan (Majuikan) inaugurated to provide commercial enterprise in the fishing industry and to improve the general well-being of the fishermen, is headed by an officer who is assisted by a clerk. A land office is situated in a new government office building to look after land matters.

Executive and policy matters are decided from time to time by an Executive Working Committee headed by the District Officer and 2 Assistant District Officers and a police officer. A Police Department is situated right in the centre of the town.

A court house, situated in the centre of the town, houses a magistrate's court and a sessions court. There are no regular magistrates but a visiting magistrate comes fortnightly to 'dispense justice'. The sessions court sits from time to time as cases arise. In 1974, there were 63 cases being tried in the magistrates court, mainly dealing with petty thefts, causing hurt, trawler fishermen violating the three miles fishing limit (trawlers are only allowed to fish outside the three miles limit), gambling and immigration cases. There were altogether a total of twenty-three sessions court sittings, mainly dealing with drug cases (15-18 cases), a few road traffic offences and one or two criminal breach of trust cases.

The thirty-six civil cases in the magistrates court and eighteen in the sessions court mainly involved claims under the Money Lenders Ordinance, accident claims and non-payment of rent by government low-cost housing residents. There were five juvenile cases, all involving petty thefts. The court clerk was of the opinion that the crime rate of the town is very low, as compared with the total population of 34,657 people.*

It is important to note that there is no law firm to

* The figures were obtained from the Records of the Magistrates and Sessions Court, Mersing.

serve the town and the nearest law firm is in Kota Tinggi,* a town about twenty-three miles away from Mersing. The nearest Legal Aid Bureau is in Johore Bahru some 83 miles away.

Muslim Law matters, such as marriage, divorce and maintenance and custody are looked after by a kathi, who is assisted by three clerks.

A social welfare office, headed by a social welfare officer, a social science graduate, assisted by an assistant social welfare officer, two clerks and a voluntary worker, look after the town's social welfare needs.

Group B

This is a community located about 7 miles from the town centre (Alor Star) in the North of Malaya.

A distinct majority (80%) of the 150 households surveyed derived their livelihood from fishing. The rest were in related occupations: pukat tunda** makers - 6%; petty trading in fish and fish products - 3%. About 9% were engaged in jobs unrelated to fishing whilst 2% were unemployed.

81.3% of the households received an average monthly income of less than \$100. 10% received an income ranging from \$101 - \$150 per month whilst 6.7% received an income exceeding \$150 per month. 8.7% of the subjects took on supplementary jobs to augment their meagre income. The majority were employees of rich boat-owners and were paid

* At the time of writing this law firm was reported to have been closed.

** A kind of fishing net.

according to the tonnage and kind of fish caught.

The vast majority (78%) were in the 30 - 50 age group. 12.7% were less than 30 years of age whilst 9% exceeded 50 years.

64% were educated up to Std. IV Malay Education; 6.7% Std. 5 and 22% had acquired an education up to Std. 6. (No study of the infra-structure services available was made).

Group C

This is a community in a FELDA scheme* situated about 18 miles from the main township (Kota Tinggi, Johore). The cash crop grown is oil-palm. The scheme was opened in 1972 so that the oil-palm is 2½ years old. There is a total of 363 Malay settlers with 25 staff personnel to man the scheme. The scheme is run on a

* The FELDA scheme represents one of the main Government efforts at eradicating poverty. On the assumption that absolute poverty is due to low productivity caused by uneconomic sized holdings and outmoded farming methods, the FELDA scheme provides opportunities for inter-sectoral movement from low productivity to high productivity activities which also represents a movement from traditional to modern agriculture. Landless families are transferred to land settlement schemes where a heavy subsidy program seeks to create peasant ownership of land, viable both in terms of acreage of land allotted (12 acres for rubber holdings and 14 acres for oil palm per settler) and productivity. Up to the end of 1973 29,000 families (out of a total of 402,000 families, discounting the factor of population growth) had been settled: Mid Term Review of the 2nd Malaysia Plan 1971 - 1975, Government Press, 1973. See also generally, 2nd Malaysia Plan, Government Press 1971.

For a critique, see Yeoh Kung Hock, NEW ECONOMIC POLICY A CRITIQUE (1973) Unpublished B.A. dissertation University of Malaya, and Dr. Syed Husin Ali, Rancangan Felda: Beberapa Aspek Ekonomi dan Sosial (1974) Vol. 2, Manusia dan Masyarakat, 48.

block-group system, each group consisting of a 100 odd settlers. The settlers are given their individual lots within each block. The settlers are provided with the necessary agricultural implements as well as seedlings, fertilizers etc., at Government expense. The cost incurred is debited to the settlers account and is deducted from them after profits are made from the sale of the crops. The settlers are paid a fixed amount per month (approximately \$70 per month) until their crops are ready for sale. This income is also debited and deducted eventually from them.

The Area Manager manages the entire scheme with his staff of field assistants, clerks, typists and social workers. Mandores are appointed from the more enterprising of the settlers, to supervise field-work. There are also "block-leaders" to man the blocks. The Ustaz, Kathi and Imam are appointed to assist in religious matters. The social structure of the community is further reinforced with the establishment of seven associations of which the settlers are all automatic members. The seven associations are:

- (1) Badan Tenaga Pertanian
- (2) Badan Bantuan Pelajaran
- (3) Badan Tata-tertib
- (4) Badan Sukan dan Kesenian
- (5) Gabungan Pergerakan Wanita
- (6) Syarikat Kerjasama
- (7) Badan Khairat Amatian

The services infra-structure includes a clinic with a Family Planning Unit, schools (primary and lower secondary), a mosque and sundry goods store (kedai syarikat). The scheme lacks a Police Station, Fire Station,

transport services and Welfare Services.

Altogether 254 or 70% of the settlers were interviewed.

The Survey Method

The survey was conducted on two levels:

First, a questionnaire was administered to the sample community.

Secondly, answers obtained therefrom were utilized in a series of unstructured interviews with the community leaders and service agency personnel whom the sample groups identified as "sources" they turned to. This was done to ascertain the community leaders' perception of problems the poor in their community faced, and, the problem-solving mode they employed or would recommend. Their ability to identify a problem as "legal" and their suggestion of legal solutions was particularly noted.

The questionnaire was adapted from that used by the Duke Staff Law Journal in a similar survey. The questionnaire was divided into four sections:

Section 1: Consisted of a series of hypothetical problems covering a wide range of problems covering consumer protection, landlord-tenant, welfare benefit, debtor-creditor, child custody, child-arrest, divorce and maintenance, will and estate problems. The subject was asked simply what he would do if faced with a similar problem.

Section 2: Probed the subject's knowledge of problem solving modes and his experience in utilizing these resources. His knowledge of the functions and the range of services provided by the various service agencies was tested. He was also queried about his personal experiences, if any, with such agencies.

Section 3: Looked into the actual problems the subject had faced. His actual responses to these problems was evaluated: What he did, what source did he have recourse to; where he did nothing, what caused his inaction. The areas covered those in Section 1 as well as injuries in the course of employment.

Section 4: This covered background information about the subject.

PART 11

This consisted of unstructured interviews with "Community leaders" which included personnel of service agencies operating in the poverty communities.

They were first posed hypotheticals and asked how they would advise if someone approached them with a similar problem. In this way their "legal" perception was adjudged. They were asked how they would and did respond in an actual situation. Insofar as community leaders were the "pointers" in the community to other referral sources, their knowledge of agencies servicing the communities was tested. Their ability to make referrals to proper redress-sources was adjudged. It was also sought to ascertain factors which inhibited appropriate referrals.

All the subjects, including the community leaders, were reported to be exceedingly co-operative in all the three surveys.

Definitions

It is important to explain the terminologies employed throughout this article.

"Poor"

To avoid the controversies surrounding the definition of this term, the concept of "absolute poverty" in contra-distraction to "relative poverty" is relied upon. This is defined by reference to personal income. The cut-off point for absolute poverty below subsistence level is fixed at an income of \$85 per month for a married person and \$50 per month for an unmarried person. For absolute poverty above subsistence level but below a fair living standard, the respective cut-off points are \$86 - \$300 (married) and \$51 - \$150 (unmarried)*. Given that there was an average of 6 - 7 members in the families interviewed, all the sample households came within the definition of "the poor."

"Legal Problem"***

Insofar as the definition of "legal problem" involves a consideration of the defined norms, responses and values of the community under review, it defies precise formulation. A "legal problem" may be said to exist for an individual when he perceives he has one. It is the individual's perception of self in relation to the community and law that determines when a problem is called a "legal problem" - which is intimately involved with a sense of injury or a sense of responsibility - a recognition of rights and duties. The recognition of a legal problem does not however automatically follow from a sense of injury. There must necessarily exist a preliminary process whereby injury converts to a claim

* The figures are derived from estimates made by FELDA in determining the amount payable as an allowance to the settlers. The figures have not been adjusted to take account of steep inflation.

** Raymond Marks' formulation of this definition is adopted. See F. Raymond Marks Jr., LEGAL NEEDS of the POOR - A CRITIQUE p. 4.

or a sense of duty converts to adjustment. Viewed thus, a legal problem may be defined as a situation, which by common agreement, is capable of legal resolution, or a situation in which a lawyer's services could have a possible mitigating effect.

"Legal Need"

This is usually described as the lack of equal access to the formal processes of adjudication inasmuch as claims of injuries are worthless without recourse to redress channels. This definition is narrow in that it refers only to physical needs e.g. legal services, loans and credit programs, employment benefit and social welfare aid. It fails to consider the broader functioning of the Legal System whereby conflict identification and resolution can occur in advance by counseling or negotiating at the individual and group level or legislating at the community level.* In this study, the definition in its wider context is employed.

* Ibid.

PART 1

THE QUESTIONNAIRE STUDY

The Hypothetical Problems

The first set of questions consisted of a series of hypotheticals designed to elicit responses on a broad range of areas which, it was thought, affected the life of the poverty communities. These hypotheticals were generally utilized to test perception of a problem as legal, knowledge of legal and other problem solving means and willingness to take action. They were also aimed at determining the correlation between environmental factors - education and actual problem experiences - and the ability to recognize and utilize an effective problem solving means, legal or otherwise.

The following results may be summarized:

First, the communities' perception of a problem as legal and their knowledge of legal and other problem solving means and willingness to utilize these means were conditioned by their understanding of their rights. Given that their conception of their rights was very poor, the poor were unable to perceive problems as amenable to legal redress. Consequently their only remedy was self-help. Thus, to the hypothetical poser - what they would do if their landlord refused to repair their house - most were content with undertaking repairs themselves. Most of the rest suggested moving house if the disrepair grew worse. Beyond allowing them to stay in the house, they had no conception of the obligations of the landlord. This may have been aggravated by the absence of any kind of agreement regulating the tenancy although it is more likely that ignorance as to their rights and others' obligations made an agreement superfluous. The poverty

communities' view may be understandable as no housing code stipulating minimum housing conditions and obligations of landlords exist nor is there in existence any bureaucratic - administrative machinery to which the community may turn to for help.

Secondly, even where there was an awareness of one's rights, there was still a glaring inability to recognize the problem as legal and consequently, failure to pursue efficient problem solving modes. This was probably because the understanding of their rights was based on broad notions of right and wrong. Consequently the remedies they suggested were also reactive and often bordered on self-help. Thus most in the sample reported that if goods they purchased were defective they felt entitled to have them restored. None thought of it as a problem capable of legal resolution. They felt cheated insofar as they were not obtaining any value for money; consequently most felt that they would require the seller to repair the article otherwise they would stop payment. The articles specified in the questionnaire (sewing machine - Group 1 and refrigerator - Group 2) were almost always purchased on time payment scheme so that this self-help remedy could be particularly effective.

Thirdly, ignorance of their rights places them in a weak and pathetically helpless position. Unable to advance their own rights, they become almost totally dependant on the strong and powerful in the community for an amelioration, even temporary, of their problems. These strong and powerful are almost inevitably the landlords, the shopkeepers, the boat-owners and the like - all of whom stand in a more or less exploitative relationship with the poor and on whom the poor are almost wholly dependant for their livelihood. Against these "friendly evils" there is little the poor think of doing nor even think they are entitled to do. Legal remedies against them

were never even remotely contemplated. For example, if they fall into arrears in their loan repayments with a money-lender or if he charges them high interest rates or where the lender also, for example, owns the boats they use for the fishing enterprise and he makes them sell their catch at depressed rates, their only recourse is to entreat him with pleas of mercy to be charitable. In the house repair poser 7% (of Group A) actually suggested stopping rent payments until the repairs were undertaken. It is unlikely, however, that in the face of an implacable landlord the poor would seriously continue with this retaliation. Similarly in the case of the seller of defective articles. This overawing view of authority was most strikingly demonstrated in the answers to the query - what the parent would do if the child was charged for a criminal offence. It was generally felt that the criminal process was initiated only if the person was in fact guilty. Consequently they thought of their intercession as futile. Consistent with this, most of them suggested that they would seek to "settle the matter" with the police meaning the usual "pleas for clemency" that the charges be dropped. Even in this situation, where the court and the "law" are clearly involved, a negligible number (2 in each group) considered the services of a lawyer.

Fourthly, an extraneous factor, religious upbringing, contributed to a heightening of knowledge of problem solving means as well as a willingness to utilize them. The communities are staunchly Islamic and familiar with some of the more generally-known facets of Islamic life - one of which is that the Kathi is the representative of the faith in the community. He solemnises marriages and any problems relating thereto, e.g. maintenance, divorce, child-custody are within his jurisdictional purview. Thus almost all in the sample said they would refer to him if they faced problems pertaining to matrimony. That their

knowledge was confined only to the more common known features was made patent when they were queried on aspects of the Islamic law of inheritance. The Group A sample understood that all property could be willed away whilst the Group B sample thought willing away property was not permitted by the Quran.*

Finally, prior contact with an administrative source not only improved their knowledge of their rights but increased as well their willingness to pursue their rights within the administrative framework. Thus of the 23% from the Group A sample in receipt of financial assistance from the Social Welfare Department 66% said they would appeal to the Ministry if their benefits were discontinued at the periodic review. Those not in receipt at all said there was nothing to be done - a sadly pathetic response considering that, first, almost all of those denied the aid were entitled to it based on the Department's criteria of income, family size, and number of dependants and, secondly, the amount given ranged from \$10/- - \$35/- per month i.e. as much as a quarter of the income of some. Similarly, a very high majority (88%) of the Group A sample stated that they would contact the Fisheries Association for help in purchasing their own boats, a new engine or new fishing nets. The fact that 77% of the Group were members of this Association and knew of its subsidy scheme had no doubt a strong bearing on this source information.

Conclusion:

Our legal system is based on self-identification of injury and wrong and self-selection of a remedy. Amongst

* The true position is that a Muslim can bequeath by will only one-third of his net assets; a bequest in excess, however, is valid if his heirs whose rights are infringed thereby, consent to it. Such consent may be express or implied.

the poor, as we have seen, this self-identification/selection process is virtually non-operative. Consequently the viability of the legal system, in relation to poverty communities at least, is questionable.

Knowledge and Use of Resources

As stated, this part of the questionnaire sought to ascertain the knowledge and use of resources available to the community. Information elicited also sought to establish the degree of the subject's knowledge of a particular program, his reactions to any experience with its use, and how he learnt about it.

The Legal Aid Bureau

Insofar as the perception of problems as legal was virtually non-existent, it is natural to assume that the subjects would not contemplate the use of agencies based on legal modes of problem-solving. This probably accounted for the over-whelming majority in each sample being ignorant even of the existence of such a bureau: 90% in Sample A, 99% in Sample B and 86% in Sample C.

Secondly, even of those who had heard of its existence, the majority were unclear of its services. 8% of Sample C thought it provided social welfare services. The rest could hardly even define its functions in generalized terms. Some had discovered the Bureau fortuitously - a subject in Group B knew of it as it was housed in the same building as another office he had visited.

Thirdly, the bureaus were distantly located - 83 miles from Group A, 30 miles from Group C and 7 miles from Group B. For those aware of the Bureau's existence, but unaware of the exact range of its services there were reasons discouraging its utilization - first, the prohibitive cost

of travelling and, secondly the loss of the day's wage.

Further, there was a feeling amongst some that the bureau was probably not dissimilar from other government agencies - from which, their experience suggested, they would receive brusque and unsympathetic treatment.

It may finally be noted that almost all the groups reacted enthusiastically to the use of such a bureau, after explanation of the services it provided.

Private Lawyers

The sample communities were familiar with the "private lawyer." They had no recourse to his services. This may have been understandable given their inability at legal perception. Strangely, it was their distorted view of his role which primarily cut him off as a problem solving source. They viewed the lawyer as a defender of criminals. Hence their defensive retort - "why should I see a lawyer when I have done no wrong!" Only 3 people had ever seen a lawyer (all in Group B). Interestingly, someone from outside the community had advised and referred them to a lawyer. One of them changed lawyer mid-course because of high fee-experience. All the three sought consultation on problems relating to land disputes. It was reported that in these cases amicable methods of effecting a settlement were exhausted and found wanting before resort to a lawyer was made.

The Welfare Department - provides a wide range of services including public assistance, old age benefits, aid for examination fees and transportation. Generally speaking, the vast majority had heard of the Welfare Department (90% in Group A; 80% in Group B and 57% in Group C). Insofar as the Department exists almost wholly to service poverty communities, the number ignorant of the Department's very

existence were inordinately large. Very few knew of the separate benefit programmes of the Department, the highest being from Group A (25%).

The reactions to contact with the service were largely negative. First, those in receipt of its benefits were ignorant of other benefits available from the Department. Secondly, those who had applied and were rejected, or, those whose benefits had been discontinued, felt that it was unfair. Thirdly, despite this they didn't do anything about it nor did they feel that anything could be done. This was most strikingly illustrated in cases where applicants had applied for the benefit but had no reply for a long time. They passively accepted this; pressed for an answer, their reply was typical: "if they want to give, they would give." Three reasons may be ascribed for this negative attitude: First, experience, either their own or friends in the community, of being turned down without reason. Secondly, the near-omnipotent role ascribed to officers and Government departments. Thirdly, the hand-outs were viewed as gifts; there was no conception of entitlement as of right. The last 2 reasons possibly explain why there were no pressures, follow-up or even a demand to know why they had been rejected.

It may finally be noted that the figures in actual receipt of the Benefit were low - 35 in Group A, 4 in Group C and none in Group B. 4 had applied in Group B of which 2 were turned down and the rest were awaiting the outcome. The vast majority did not apply primarily because of negative experiences with the Department.

The Fisherman's Association

More comprehensive set of answers were elicited from the Group A sample. About 123 in the sample were members of this Association. The rest had heard of it and all were

also familiar with its subsidy schemes. A very high number (80 out of the 123) had applied for some form of subsidy but only 45 were successful. A very high percentage (66%) of the unsuccessful did not know why they had been denied - nor did they attempt to find out. Again, the general lethargy in following up denials may be ascribed to the all-powerful role attributed to the Association and its functionaries as well as the subjects' non-conception of their rights.

Significantly, more knew of the existence of a related body - Lembaga Kemajuan Ikan.

Loan Sources:

The loan sources include the Bank Pertanian, the Credit Guarantee Corporation (dispensed through Banks, Badan Tenaga Pertanian in the Group C sample) and MARA.

All of these loan sources made special arrangements for the provision of loan facilities at low interest rates for the kind of sectors represented by the sample communities.

Beyond the general knowledge that Banks are for money, there was no knowledge of the range of the special loan services designed for them. No one knew of the procedure to follow to obtain a loan. Some felt that since they could furnish no security, they would be clearly ineligible. This indicated complete ignorance of the security-free CGC loans. It appeared that the sample communities steered clear of agencies which typified intricate, dilatory and irksome procedures.

Family Planning Clinics

There was a wide divergence in the results of the different poverty communities. In sample A, 90% had heard of its services, in sample B all the women-folk, and in

sample C, 77%. There was general male apathy suggesting that it was considered a woman's task to "plan" a family.

In sample A, agency use was amongst a very few. In sample B, a mere 7% of the women-folk had gone to the clinic out of which just over half were practising it. This contrasted strikingly with Sample C where more than 55% were actually practising it. This disparity is explicable by reference to the process by which the communities were initiated and educated into the use of this service. In the Group C sample, there were talks on this subject given as part of the weekly talks by Gabongan Pergerakan Wanita of which all women-folk are members. This was coupled with house calls made thrice weekly by experienced social workers who also supervised those practising family planning. In the other 2 groups, there were house calls but little by way of intensive education, persuasion and guidance. The reaction to their contact with this agency may indeed be seen by their use of this facility. The vast majority in Group B still distrusted and feared the use of the pill. The over-whelming majority in Group A were indifferent to the service.

Health Centre

The sample communities again had a narrow perception of the role of the Centre; they recognised its use for provision of medical services including maternal and child care. But none were aware of its sanitation services which encompassed an important range of activities - environmental cleanliness, control of food sold in markets, school health services, preventative and curative treatment for diseases such as malaria and cholera. This was alarming considering the high rate of disease in the communities. 80% of the interviewees in Sample A experienced infant mortality, one woman reporting the death of three of her infants.

Labour Office

None of the interviewees recognised that recourse could be had to the Labour Office for protection against unscrupulous or delinquent employers who failed to comply with the minimum provisions stipulated in the Employment Ordinance 1955.

Conclusion:

First, knowledge of existing services was often non-existent in important areas where distributive mechanisms theoretically exist to mitigate some of the harsher consequences of poverty. Where knowledge existed, it was extremely rudimentary and confined to areas of immediate use to the subject.

Secondly, as a consequence, the use of the service was minimal. Their use was greater in relation to immediate bread and butter questions. Even then the negative attitude of officialdom succeeded in turning away the subjects. Use was also heightened where there was intensive propaganda coupled with constant supervision and careful guidance.

Thirdly, the reactions to any contact with the service were largely negative. The authorities were looked upon as omnipotent whilst recipients looked upon themselves as charity-seekers who had no rights to assert. This view was reinforced by their experience with the bureaucracy. No explanations or reasons followed a denial of services. Consequently the poverty were passive non-participants of the system with which they came into contact.

Finally, they acquired knowledge and use of resources primarily through bodies of which they were members and which provided them with a steady flow of information on specific services. Intensive education via voluntary organisations was also useful where it was sustained and

carefully followed-up.

Responses Related to Personal Background and Characteristics

It was difficult to establish correlationship between personal background and characteristics.

The educational attainment ranged from Primary 6 (Malay medium) to nil. Persons having attained the higher educational level were as inactive as those who had no education. A similar correlationship was discerned between educational attainment and knowledge of community services. Formal education thus did not appear as a factor enhancing legal activism or knowledge of resources, although it is quite probable that the difference in level of educational attainment between members of the sample community was insufficiently marked to help establish a causal relationship.

It was also difficult to determine the effect of employment as well as family background on activism or knowledge of resources. This was because the sample communities, by and large, supported a single occupation which was passed down from father to son. There was also no reported community activity in which members of the sample group were involved.

Sex too had a minimal impact on both activity and community knowledge except in relation to the Family Planning Clinic resource. This was because the men felt the responsibility for "planning" a family was solely the women's task. This view was further promoted by educational campaigns on family planning being conducted by exclusively women's organisations, as was noted earlier in relation to the Group C sample. Generally, the man as the head of the family had a better rating but this view may be misleading as the questionnaire was dispensed in the first place to the male bread-winner; only when this was not possible was the woman asked the questions.

Study of Actual Problems

This part tested the way in which the communities handled actual problems they faced. Their methods, course of action and the success or otherwise of the outcome were compared with their answers to the hypotheticals and their levels of knowledge of available resources. The effect of problems as a learning experience and the factors which enhanced the ability of particular individuals to become more effective problem solvers was analysed.

Injuries suffered in the course of Employment

The number of subjects who reported suffering injuries in the course of employment were: Group A - 12, Group B - 6 and Group C - 38.

Those who suffered relatively minor injuries did nothing about it. The rest approached the employer for financial aid, prompted, not by any conception of their entitlement to compensation, but by the pressing financial difficulties created by their incapacity. They received no wages during their period of disability. The two fishermen in Group A who approached the employer were both given a small amount to meet medical expenses. The employer was also reportedly willing to advance them a loan. Two of the four in Group B who approached the employer were paid a small compensation. They were satisfied. The other two rejected did not know the reasons. Although they expressed dissatisfaction, they did nothing to pursue their claims, reasoning that that would only get them into trouble. Dependent on him for his livelihood, the employee is quite naturally unwilling to tip his rice-bowl by making claims against his employer. Their initial reference to him was in the nature of humanitarian plea. All the subjects were activities, nor did they rate high on the knowledge of resource questionnaire.

In sample c 3% of the affected were activists and scored high on the resources questionnaire. A majority of them applied for personal loans even when they suffered minor injuries. They did not however demand compensation as they said they did not know what was involved in making the application. Although they felt that some kind of reimbursement ought to be given, none of them took up the issue with the Authority. They reported unfamiliarity with the procedure as the prime factor discouraging pursuit of their claim.

Four subjects who suffered very serious injuries asked for some kind of payment as they were unable to work for about 1½ months. Two of them were active on the 'welfare denial benefit' hypothetical. They approached the Area Manager who duly advised them that nothing could be done as their agreement did not cover the payment of such benefits. Although they felt this denial unfair, they did not raise the matter with the J.K.K.R. They reasoned that there was nothing the J.K.K.R. could do. This latter response was no doubt influenced by their past unsuccessful experience with the J.K.K.R. in their agitation for water and electricity supplies, discussed earlier.

In none of the cases were the services of a lawyer sought.

Social Welfare Benefits

The number of people in receipt of benefits were:
Group A - 35; Group B - nil and Group C - 26.

In Group A, 10 of the 18 receiving aid in respect of their children's schooling expenses had their benefits discontinued whilst 3 of the 5 in receipt of public assistance had their aid discontinued.

Amongst the former group, 6 had seen the Welfare Officer for an explanation; only two of them were successful

in having their benefits restored. The rest did not pursue the matter any further. The six people gave a similar response in the 'welfare denial' hypothetical. Among the 4 who did nothing, two had answered in the hypotheticals that they would appeal to the Social Welfare Ministry. It appears therefore that experience with the agency, by and large, did not enhance their knowledge of a problem-solving means. Unsuccessful contact may indeed have infected their responses to other government agencies. This was also reflected in the public assistance recipients who reasoned that nothing was to be achieved by pursuing their complaints. This corresponded with their answers in the hypotheticals.

The knowledge of resources of the subjects concerned was quite high. This suggests that knowledge of bare services did not improve ability to pursue remedies where problems e.g. denial of services, were experienced. 8 subjects, all of whom felt entitled to benefits, had applied for benefits. They had heard no news at all. None had done anything about it.

In Group B, 4 applied for benefits in the past. 3 were unsuccessful. Two of them stated that no reasons were assigned for their rejection. Despite a feeling of having been unfairly treated, they did nothing, opining that they did not know what could be done. The remaining family, who had applied for assistance to help pay for his childrens' school-fees, was told that he was not entitled as his children had poor grades. He accepted this explanation without question.

The 3 subjects were fair in their knowledge of resources. Only 1 was an activist. Even his response in actual problem situations was at variance with his answers in the hypotheticals.

In Group C, the same general trend was discerned. No one challenged the termination of his benefits. 5 subjects

consulted the Welfare Officer whose explanation - that the total family's wages had risen above the minimum level - was accepted unquestioningly. Their knowledge of resources was below average and they were inactive in the 'welfare denial' hypothetical. The response further showed that actual contact with the department did not enhance ability to pursue remedies.

Interestingly, a vast majority of the community, although entitled to benefits based on the criteria of income, did not apply for it. This was all the more surprising as the financial aid was fairly substantial, given their low income. It appears that the high rate of rejections/terminations by the Department is widely known in the community and discourages potential users. In this case, others experiences 'educate' the rest of the community against the use of the service. It may also be suggested, although this is highly conjectural, that there is a reluctance to approach what is looked upon as a charitable organisation for "alms".

Finally none of them sought the services of a lawyer.

Consumer Problems

About 15 (Group A) and 23 (Group C) subjects reported purchasing items on cash payments which was later discovered to be defective. The activists and semi-activists took the items back for repair or exchange. A fraction of them did nothing primarily because of the small value of the item. Those who did nothing scored low on the hypotheticals and knowledge of resources. In the hypotheticals they had suggested self-repairs.

A very high percentage in all three samples reported purchasing items on installment plans. The activists in Group C withheld payment for defective goods. This proved effective insofar as the seller did not take legal action

against them but, instead, repaired or exchanged the items.

A high percentage reported experiencing difficulties in making installment payments. All sought credit extensions from the sellers, which were granted. The reasons for their action in this may be because, first, they were forced to do something or face trouble, secondly, their familiarity with the dealer, a "local", made it easier for them to approach him with their problem and, thirdly, their knowledge of successful problem experience of other members of the sample community.

No one sought legal aid or advice.

Loan and Credit Problems

A very high percentage of the communities, quite unsurprisingly, experience debt problems. In group C, they owed money to local money-lenders, in Group A they took loans from close friends and relatives; they also incurred debts for the purchase of sundry goods and food from the village grocer.

Interestingly, in group C, although all were familiar with the personal loan facilities, a significant number sought loans from unscrupulous money-lenders from near-by towns. Primarily because loan facilities took a long time coming. Here their experience actually militated against their use of this facility.

Faced with an over-due debt problem, the subjects asked and almost inevitably succeeded in obtaining credit-extensions. This recourse typified all the subjects, activists, semi-activists and non-activists suggesting that in situations where it was necessary to take action, the response was identical.

The fishing communities (A & B) were plagued by an almost hopeless debt problem. To pay for their fishing expenses mainly, they took loans from the towkay. These,

though interest-free, were given on one condition-that the fish must be sold to him. The prices he then fixed were well below market value. This in turn depressed the fisherman's wages who was forced to borrow again. The same was true of the debt problem he had with the transport companies who helped transport his fish. The community felt there was no solution to this problem and were unaware of other better-regulated loan-source.

In Group C, two reported being sued in Court for a debt. One was an activist, the other a semi-activist and both scored average on knowledge of resources. None engaged a lawyer. This was understandable insofar as both had defined the lawyer as a defender of offenders.

Housing Problems

Group C:

The housing problem confronting the sample most critically was the lack of water and electricity supplies. Although the scheme was opened in 1973 no ground-work had been laid for the supply of electricity. The water-supply came sparingly and at irregularly unpredictable intervals. The Agreement signed by the settlers entitled the community to both these supplies. There was a gentle build up of pressure by a large section of the community (80%) in pursuance of their demand for the supply of these facilities. The block leaders consulted the Discipline Board which in turn mooted it at the J.K.K.R. meetings on numerous occasions. Significantly, the non-activists were the majority "agitators". This may suggest that when a problem is experienced in common with the rest of the community, the inter-action between the activists and non-activists and a sense of organisation and group participation which emerges therefrom is likely to improve a subject's

sense of awareness and his willingness to assert his rights more vigorously.

Even so the ultimate result was a loss of faith in this "participatory politics" as, after three years of pursuing their rights, nothing concrete had emerged beyond a promise of an official "studying the problem". A loss of faith in obtaining results by use of this consultative mode of settling problems was discerned and infected the responses of this community to other questions.

Group A

In Group A, more than 50% of subjects renting houses had serious repair problems (leaking roofs and broken walls). The majority conducted their own repairs. The rest informed their landlords.

This coincided with the figure in the hypotheticals who said they would do so. Of this 5% had their requests for repairs rejected by the landlords. Some of them actually stopped payment of their rent. Only one had threatened such an action. The majority of those experiencing repair problems were average in knowledge of resources. Cases of threatened eviction by landlords was real in Group A for some 30 subjects on grounds either of failure to pay rent or refusal to agree to an increased rent. The majority in the former situation had negotiated for an extension of payment; whilst the majority in the latter case had negotiated a compromise figure. This again suggests that confronted with a problem where action was critical, the community responded positively and pursued a viable non-legal problem solving means.

Domestic Problems

The general approach may best be illustrated by reference to what the Group A members did in pursuit of a

remedy where the husband failed to pay maintenance for the family.

13 subjects were affected by this problem; the majority of them were semi-activists. They scored well in the resource questionnaire and suggested recourse to the Kathi. But only 3 actually did so, one of whom felt her visit unsuccessful as her husband failed to pay up. Most were deterred in going to the Kathi because of their knowledge that the role of the Kathi was limited by a lack of effective sanctions against the erring spouse. They were also cognisant of their spouses' low income and felt there was nothing they could really do in the circumstances. This in turn may encourage erring husbands to disregard their responsibilities for providing maintenance.

Thus knowledge of the ability to secure a result affected the actual use of the problem-solving mode.

An identical attitude typified the responses of the communities to 'custody' problem cases.

Crime & Criminal Problems

First it may be noted that none for whom this problem was real suggested the use of a lawyer. Indeed they replied in the negative when queried whether they had any problem amenable to lawyers' services. They were, on the other hand, cognisant of a lawyer's role, at least in the criminal arena. In the Group A sample, for example, two reported being charged and convicted in court for an infraction of the conditions attached to their fishing licence. They had defined, in the hypotheticals, the lawyer as a defender of criminals yet they did not seek his services. It is possible they did not classify their offence as criminal. In the child-arrest hypothetical, they had not suggested the use of

lawyers' services. Consistent with this response, they both maintained that they did not employ lawyers as they wanted to plead guilty - indicating, at least, the non-role they assigned to lawyers for mitigating purposes.

Neither did they contact anyone else for aid or advice, although they scored average on the knowledge of sources. Prohibitive costs of engaging a lawyer was also proffered as an explanation for eschewing reference to him. Also, the difficulty of getting "in touch" with a lawyer, a point suggestive not merely of a logistical but, as well, a cultural problem - the cultural alienation of the poor from the professional.

Five of the subjects in Group A reported that their children had problems with the law. Four were convicted, punishments ranging from a fine to three months' imprisonment term. No one solicited a lawyer's services. Consistent with their response in the hypothetical, all but one interceded with the police on their child's behalf. Although this proved unsuccessful, adjudged by the conviction rate, there was no alternative problem style resorted to nor even suggested. Whether their experience with the court process lessened their view of law as a problem-solving mode is difficult to establish. What is clear however is that such contact did not increase their legal perception.

Conclusion

Generally, the communities responded feebly when confronted with a problem. Their choice of problem-solving channels was ineffective. They performed particularly well where they had no choice e.g. over-due payments, in which situations they adopted viable non-legal means of redress. Prior experience with agencies, either direct or indirect, tended to discourage use

especially where rate of failure to obtain an effective remedy was high. This also explained, in some cases, the wide divergence between answers in hypotheticals and responses to actual problems. Even where a remedy was pursued, there was no follow-up until final resolution. Often a mere denial, without satisfactory explanation, resulted in an abrupt end to the subject's quest for a remedy. This indicates perhaps a view of service personnel as all-powerful and whose decision it was futile to question.

There was practically no recourse to lawyer's services. Generally there was reflected in the answers, a difficulty in identifying a legal problem in a real life situation. Consequently access to existing legal problem-solving styles was hampered. All in all, by way of impressionistic comment, it may be concluded that

- (a) The impact of even the skeletal knowledge of the poor about legal resources and problem-solving styles upon the use of such resources and styles was practically nil.
- (b) The poor's non-use of the legal system suggested that they perceived the legal system as largely ineffective and inaccessible.

PART II

COMMUNITY LEADERSHIP & SERVICE AGENCY INTERVIEWS

It was seen that the poverty communities under review sought help from varied sources. They had, as it were, their own "network of aid." This part of the study attempts to evaluate the role and efficacy of this "network". Through a series of unstructured interviews, it was attempted to assess the knowledge and problem-solving ability of the community service agency personnel and other community leaders, particular attention being given to those whose aid the poor sought. The questions were also aimed at ascertaining the individual's knowledge level concerning existing problems and assistance available from their own and other agencies as well as their ability and willingness to make appropriate referrals. Evaluation of the survey responses centred on

- (a) the leaders' perception of various problems;
- (b) their attitudes towards the availability and utility of legal assistance;
- (c) the attitude of service personnel towards their clients and the importance of their work.

The Social Welfare Offices

The responses in all three samples were strikingly identical. The ensuing discussion is based primarily on the Group A study.

The Social Welfare Office consisted of one Social Welfare Officer, an assistant, a voluntary worker and one general clerk. The Social Welfare Officer, a social science graduate, was familiar with the programmes provided by the Department. She reported knowledge of the existence of the Legal Aid Bureau and had made referrals to it in maintenance and divorce cases. The main function of the

Department was the provision of public assistance in the form of cash. About 275 families in Mersing were receiving benefits under the various benefit programmes.

Welfare department knowledge concerning programmes of other agencies was abysmally low. The officers were ignorant of the programmes of the Fishermen's Association, the Land Office and Health Centre. They had no knowledge of even the existence of the Credit Guarantee Corporation and the Lembaga Kemajuan Ikan. Similarly they were ignorant of the proposed housing project for fishermen. The degree of inter-agency knowledge and co-operation was startlingly low, given that the town was small and the agencies sited close together. Their knowledge of their own operations was good, although, in the Group C sample, the officer terminating recipients' benefits did not suggest alternatives or a redress procedure.

The Department elaborated on the main reason which led to a termination of the benefits. This occurred when a member in the family worked, thus raising the family's income well above the minimum income level stipulated in the means test. This was justified by reference to the heavy demands made on their limited budget for public assistance by other members of the community.

The personnel displayed the same limited notion of problems as "legal" as the sample communities. Only divorce and maintenance cases were considered amenable to the legal process. None regarded consumer and housing problems as capable of a legal solution.

The Social Welfare Officer did not intercede on behalf of the Welfare clients when they failed to meet over due payments. She suggested they negotiate with the sellers.

In Group C, the Officer advised a subject consulting him on divorce to reconcile for the sake of his children.

There were, in the Group A sample, referrals to the Legal Aid Bureau, Johor Bahru, on divorce and maintenance cases. No reference was made to lawyers primarily because of the realisation that they could ill-afford such services. No attempt was made to ascertain with the subjects whether they consulted the Bureau and whether their problems were satisfactorily resolved.

The attitude towards the community was one of indifference. No concerted educational campaign was undertaken to publicise the department's services; thus although almost all the interviewees were eligible for social welfare benefits - few had applied for it and still fewer had actually received it. Although the officer in the Group C sample stated that reasons for refusal/termination were communicated to recipients, the latter, it was noted in the "actual problem" study, were categorical that no reasons were ever proffered. This indifference by the personnel was reflected in the apathy towards the Department as a source of aid by the poverty communities in all three Groups.

Fisherman's Association

Enacted pursuant to the Fisherman's Association Act 1971, its wide ranging objectives include the restructuring of fishermen's community and narrowing the economic gap and imbalance; to create a commercial and industrial fishing community; to have viable industrial activities at fishing centres with the aim of increasing the working opportunities of fishermen; to provide the fishing community with marketing, credit, storage and other fish processing facilities and services; to encourage thrift and co-operation; to have savings and other loan schemes among the members; to encourage members to invest their capital in business ventures; to increase the income and catch of fishermen by providing education and training in modern fishing

techniques; to encourage spirit of unity, progressiveness and general well-being among members; to act as arbitrators in disputes between members. The only programmes actively undertaken was the provision of subsidies for the purchase of fishing gear. Amongst its forthcoming projects were the training and education of the community in fishing and related fields. A marketing complex was being built designed to market fish as well as sell ice and diesel at subsidised rates to members.

The Association's knowledge of the programs of other agencies was poor. Their personnel had not heard of the Legal Aid Bureau at all. They knew of the Welfare Department financial aid programs but only in broad terms. They did not suggest the CGC's programs to the community possibly because of the feeling that no such loans would be made, given the rather low income level of the fishermen. They were however well versed with the programmes of the Lembaga Kemajuan Ikan, a fact strongly related no doubt to the fact that the Association was now directly under the Lembaga. The degree of inter-agency knowledge and co-operation was consequently poor. Again the smallness of the town and nearness of location of offices made this difficult to comprehend.

Surprisingly, despite the comprehensive range of objectives, the Manager of the Association stated that the aims were only to provide subsidies and arrange loans for its members. He also stated that there was no intention to extend the range of its activities.

The legal perception of the manager hardly differed from that of the sample group. He did not perceive consumer or housing problems as capable of resolution via the legal media. Consumer debt problems were often cited to him as a reason for loan applications. He appeared to be effective in suggesting non-legal remedies to resolve two of the commonest problems that were referred to him.

The first was financial problems. If it related to the subjects' fishing business and came within the ambit of the Association's subsidy/loan scheme, he would help by making available this facility. Otherwise he referred them to the Social Welfare Department. The second related to the conflict between those who fished with drift nets and trawler fishermen. The trawlers, contrary to their fishing licence conditions, often encroached into the former's zone and, as they usually fished at night to avoid detection, damaged the drift nets in the process. The Association acts as arbiters in this conflict and usually awarded compensation to the aggrieved net drifters.

The attitude of the Association personnel was sympathetic. They recognised that Chinese, especially Singapore Chinese middlemen, exploited the fishermen's weak and dependent position to their advantage. Owner-operators facing marketing and distribution problems were at the mercy of these middlemen who charged exorbitant transport fees. Through advances in payment, they kept the fishermen dependent on them and forced the latter to sell them fish at depressed rates. This sympathy could have been enhanced by the racial presentation of this economic exploitation as well as by the resentment against 'foreigners' exploiting the 'local' poor.

Of the 51 applications for subsidies, 17 were unsuccessful. There was no explanation for the reasons for rejection beyond the reference to the flexible criteria for entitlement to the subsidy/loan programme.* The

* The criteria for entitlement of subsidy is based on family background, number of dependants, income, whether a fisherman is an own operator or one who works for fishermen, whether he is indebted to Singapore middlemen. Applications are considered by the Director of State Fishery Division in Johore Bahru and the manager of the Fishermen Association, Mersing. For fishing gear, the Fishermen Association provides a subsidy of eighty per cent of their total cost, that is, about \$800/-; for engine, subsidy is given up to one third of the cost, that is, between \$800/- - \$3,000/-. Subsidy for engine will only be given if the fishermen applying for it could built his own hull.
(Source: Manager of Fishermen Association, Mersing).

'actual problems' answers suggested that the communities were never given adequate reason for their denials. There appeared to be an underlying resentment on the part of the personnel for having to 'explain' themselves. This possibly reflects the typical attitude of an educated elite functionary in the milieu of illiterate rural poor.

Majuikan

This is a statutory body set up pursuant to the Lembaga Kemajuan Ikan Act of 1972. Its main thrust consists of increasing employment opportunities amongst the fishermen as well as of enhancing their income.

The "trawler project" was one of its more important programs designed to create more owner-operators. The Majuikan built fishing boats and allowed the fishermen to operate it. The profits from the catch were shared 55:45 in favour of the fishermen. Once Majuikan recovered its cost of building boats, the ownership of the boats was transferred to the fishermen. Through the Fishery Department, the Board had secured technical assistance to build a jetty which would provide landing and marketing services to the fishermen.

It was also proposed to set up a subsidiary company - Syarikat Pemasaran Ikan Malaysia, which would eliminate the vicious hold of the middlemen by purchasing fish from the fishermen at controlled prices more reflective of the market value. Secondary activities like processing of fish products were planned which, by engaging the services of the wives of fishermen, would help improve the economic level of the community.

The Officer in charge was ill-versed with the details of his own Board, and the complete objectives of the Majuikan. He listed only the "trawler" and "jetty" projects as its objectives. This attitude in turn resulted in the lack of awareness amongst the fishermen of the employment

opportunities created or planned by the projects. Indeed very few fishermen were reported to consult Majuikan about their problems. The Officer did not attempt to acquaint them with its services by a concerted education campaign. He was generally unsympathetic and indifferent towards the plight of the community his agency was set up to service.

The Kathi

Kathis are district religious officials and administer Muslim law. Their functions include the adjudication of matters relating to Muslim law usually pertaining to marriage, divorce, maintenance and custody cases.

The Kathi, primarily because his functions were widely known to be clearly delineated, was never consulted on non-matrimonial related matters. He displayed knowledge of the Legal Aid Bureau but, in Group C, he deliberately refrained from making referrals thereto on the ground that by advising either party to take the case to the Bureau, he would be accused of being partial. His concern was perhaps justified considering that he had to finally adjudicate the dispute.

His difficulties stemmed from his limited powers which prevented him from enforcing his orders; this coupled with the very-low income of husbands (hence they could not keep up maintenance payments) discouraged references to him by the poverty community. The Kathi in Group A had referred 4 cases to the Bureau so far but he felt that distance and the prohibitive cost of travel made the Bureau an unattractive referral service.

The legal perception of the Kathi was no different from the rest. But as he was not approached on non-matrimonial affairs, this was of little consequence.

The Health Department

(a) Family Planning Clinic (Group A Study)

This was staffed by a nurse and 3 assistants. It

provided the full range of family planning services and was well-known among the community, although little used for reasons explained in the "actual problems" chapter. Because of its clearly defined functions, the clinic reported no consultation on matters outside its purview. There was on the part of the clinic personnel, at any rate, minimal knowledge of other agencies. There was no knowledge of the existence of the Legal Aid Bureau. A few (3-4 mothers) had consulted the nurse on the possibility of obtaining abortions. She had advised that it could not be done. This of course was misleading insofar as there are certain circumstances e.g. mother's health, permitting abortions.

(b) Clinic (Group C)

Staffed by 2 nurses and a part-time doctor, this clinic provides medical services. These are limited to treating minor illnesses and immunizations. Major illnesses and emergencies are referred to the hospital at Kota Tinggi. The clinic also provides child care advice, pre-natal care, birth control advice and materials, and immunization shots.

Under-nourishment while a real problem in the community was not tackled by the health department. Beyond mere casual advice to mothers who had consulted the clinic on other medical matters, nothing was done. No concerted attempt at education was made despite the existence of facilities (e.g. the Women's Association) for so doing.

Agricultural Loans Committee (Group C)

This committee provides loans to settlers. It also provides them with agricultural supplies such as seedlings, insecticides and fertilizers. Settlers are encouraged to initiate agricultural projects on lands given to them and the committee is designed primarily to foster this.

Although all are members and aware of this committee and its functions, only 60 settlers had applied for loans. Only 34 were successful. Only \$500/- had been loaned out so far, which averages to a loan of \$15/- per applicant.

A great deal of paper shuffling precedes a request for loan. The criteria is rigid for the settlers - whether the project is worthwhile, how much is applied for and, importantly, ability to repay. Finally the amount given is meagre. The chairman appreciated factors inhibiting applications but felt obliged to follow the guide lines and reported that he could do nothing to improve the loan facility.

Asked what he would do if, say, settlers grouped together to request for a big loan, he appeared uncertain. He finally suggested referral to the Land Officer at Kota Tinggi, but was unable to specify what the latter could do to help. He was unaware that the agricultural officer or even the area manager could help them by applying on their behalf for a loan from the Credit Guarantee Corporation. His ignorance may be understandable as the settlers had never asked for a big loan; but his lack of knowledge may in fact impede them from so doing. As the tasks were specific, the committee was not consulted on areas outside its purview. While the committee personnel were aware and sympathetic to the settlers' problems they felt there was nothing to do, given their clear and often restrictive guidelines.

Educational Aid Body (Group C)

This committee provides assistance to settlers for their children's education. The committee had excess funds of about \$3,000/-. This was because of the small number of applications for aid. The chairman explained that very few settlers face such a problem. But this fact was denied by the settlers themselves. The nearest secondary

school is in Kota Tinggi. Transportation and book costs were described as prohibitive by the settlers. As the hypotheticals response showed awareness of this facility, the long delay compounded by the unsympathetic attitude of the committee probably accounted for this low application rate.

The attitude of the chairman was unsympathetic. He explained away the delays by saying that a "lot of procedure" is involved. He was unresponsive to the suggestion that laborious form filling be minimised, if not eliminated. Confronted with the existing financial problem of settlers with secondary school-going children, he retorted that as the parents had not approached him there was nothing he could do.

The Area Manager (Group C)

The Manager manages the entire scheme and occupies a central position vis-a-vis the settlers. He was a graduate from a local College of Agriculture. He was approached by the settlers on a wide variety of problems.

His knowledge of referral sources was adequate. For loan facilities he suggested referrals to the numerous existing sources although he confessed to his ignorance of the procedure for making the application. He recognised that insofar as the loan facility was available for initiating projects, the referral was meaningless to someone in dire financial straits. The distance to sources also inhibited referrals. His legal perception was limited. He reported that he would not recommend a lawyer unless the settler was "deserving" by which he meant trust-worthy, of good behavior and a good worker! Additionally his recognition that the settlers could not afford the services of a lawyer rendered a referral futile. Although he knew of the Legal Aid Bureau he was unaware of its programs. If the services were free, he said he would recommend legal assistance. The Manager

reported being consulted by settlers who had taken loans from local money-lenders. His only remedy was to negotiate for credit extension and he often interceded on their behalf.

The Area Manager was sympathetic towards the settlers although he tended to be over-paternalistic and over-bearing towards them. This was reflected in situations where he quite arbitrarily decided, and based on unrelated criteria, when a settler was entitled to a referral to resolve his problem.

Penghulu (Group B)

The Penghulu is the chief administrative officer for the affairs of his mukim (a sub-division of a district) and constituted an important link between the people and the government, maintaining a link with the District Officer who was the chief administrative officer for the district. His multi-farious duties include, keeping peace in the villages trying and fining petty offenders, reporting on the general progress of the mukim; enforcing government regulations covering areas as diverse as lands, crops, revenue, health and schooling.*

In this study, the Penghulu was consulted in most cases by the members of the sample community. He was generally well versed in agencies such as the Land Office, the Kathi but he had no knowledge of the kind of services provided by the Legal Aid Bureau. His legal perception and knowledge of referral sources was only slightly better than that of the sample community. He suggested negotiating a settlement in the hypothetical on the defective house appliance, indicating his preparedness to intercede if necessary. In the "nuisance" hypothetical he suggested

* See W.R. Roff: The Origins of Malay Nationalism (Yale University Press) 1967 at page 20.

that he would advise the party at fault to resolve the problem, failing which he would report to the relevant authorities. He eschewed reference to a lawyer and appeared ignorant that legal services were appropriate to this problem. He had never referred a matter to the Legal Aid Bureau although he felt that fee problems discourage lawyer-use.

Employers (Group A)

A Chinese boatowner was selected for interview. He owned two trawler boats and employed 14 fishermen from the community. The wages he paid were computed by reference to the tonnage and type of fish caught. He provided no insurance coverage against death or injuries sustained in the course of employment.

He reported being most frequently consulted about financial problems by employees requesting loans. As indicated earlier, he reported making small loans, deducting repayments from wages. He was familiar with the subsidy scheme of the Fisherman's Association although he had made no referrals thereto. He reported not ever being consulted on consumer, custody, child arrest or landlord-tenant problems although he appeared to suggest the same referral sources as most others: consumer to the seller, custody and child arrest to the court and housing to the landlord. He assumed responsibility if his employees were charged for an infraction of the boat rules and suggested he would engage a lawyer to defend them; no such problem had ever arisen so that it was uncertain whether he would seek reimbursement for his expenditures. He reported no knowledge at all of the Legal Aid Bureau.

His real nexus with his employees appeared to be solely pecuniary - and advantaged in his favour. He showed no concern for their welfare. There was no proper contract of service and he reported the right to fire without

compensation. He appeared disturbed when asked whether he would welcome laws regulating fishermen's service contracts and the provision of a compensation scheme for fishermen who sustained injuries at work.

The Clerk of the Magistrate's Court (Group A)

The clerk reported being consulted on varied legal matters including the drafting of deeds and contracts and statement of claims. He denied helping them indicating that it was outside his official duties. He referred all such inquiries to lawyers, although he felt the community handicapped by the absence of a resident lawyer.

He was aware of the existence of all the service agencies and displayed knowledge of their main programs. He knew of the housing project for fishermen and was aware of the existence of low-cost government housing. He had an average sense of legal perception. Although no reference on consumer, over due payment or welfare problems had been made to him, he reported knowledge that some of these were amenable to legal redress. Helpless parents often consulted him on the arrest of their children. As indicated, he referred them to lawyers.

While aware of the Legal Aid Bureau, he had limited knowledge of its coverage. He listed maintenance and small estates ordinance cases as the only matters on which the Bureau provided services. He cited distance of the Legal Aid Bureau as a factor which discouraged him from recommending its use. Insofar as he was approached by the community on matters which were within the jurisdictional purview of the Bureau, his ignorance of its total services hampered its greater utilisation.

Conclusion

The agencies appeared to confine their knowledge to their own operational areas. Ability in recognising and

referring legal problems was generally poor. Knowledge of other related agencies was, at best, generalised. Consequently inter-agency co-operation was poor and referrals inefficient and almost valueless. Considering the smallness of the town which meant closeness of facilities as well as constant social inter-action between personnels running these agencies, this was incomprehensible and displayed perhaps a lack of commitment to understanding and helping the poor in a thorough-going way. Often the service personnel lacked knowledge of their own complete range of activities; even in respect of their main activities of which the poor were ignorant, little was done by way of concerted educational campaigns to rectify this. In situations where the source was a single person e.g. the Area Manager (Group C) and the Penghulu (Group B), his level of legal perception was only slightly better than that of the sample community. Knowledge of source of referrals was poor and actual referrals were far and in between.

There was a striking unfamiliarity with either the existence or the nature of services provided by the Legal Aid Bureau. Interestingly the clerk of the Magistrate's Court was consulted on legal advice and asked for help in pursuing claims. This suggests (1) an identification of the Court as a possible source of help and (2) a desire to utilise legal services. This in turn indicates that the rural poor, given their simplicity, tend to make a broad functional identification of an agency (e.g. Muslim matrimonial related problems - Kathi; law-courthouse; money-employers).

It appears that their access to an appropriate problem-solving source is highly dependent on a referral by those whose aid they seek. If the 'aider' is unable to make the appropriate referrals the poor's search for a problem-solving mode ends abruptly.

Appendix 1

Group 1: FREE LEGAL AID

- A. Possess Property not exceeding \$500/- and
B. Disposable income not exceeding:

(a) Unmarried (not paying rent)	:	\$104.00 per month
(rent paying)	:	\$134.00 per month
(b) With one dependent:		
(not paying rent)	:	\$117.00 per month
(rent paying)	:	\$147.00 per month
(c) With two dependents:		
(not paying rent)	:	\$128.00 per month
(rent paying)	:	\$159.00 per month
(d) With three dependents:		
(not paying rent)	:	\$141.00 per month
(rent paying)	:	\$171.00 per month
(e) With four dependents:		
(not paying rent)	:	\$154.00 per month
(rent paying)	:	\$184.00 per month
(f) With five dependents:		
(not paying rent)	:	\$165.00 per month
(rent paying)	:	\$197.00 per month
(g) With six dependents:		
(not paying rent)	:	\$179.00 per month
(rent paying)	:	\$209.00 per month
(h) With seven dependents:		
(not paying rent)	:	\$191.00 per month
(rent paying)	:	\$221.00 per month

Group 2: LEGAL AID FOR WHICH CONTRIBUTION PAYABLE

- A. Possess Property mor than \$500.00 but not exceeding \$3,500/-

- B. Disposable income not exceeding:

(a) Unmarried (not paying rent)	:	\$291.00 per month
(rent paying)	:	\$321.00 per month
(b) With one dependent:		
(not paying rent)	:	\$304.00 per month
(rent paying)	:	\$334.00 per month

- (c) With two dependents:
 (not paying rent) : \$317.00 per month
 (rent paying) : \$347.00 per month
- (d) With three dependents:
 (not paying rent) : \$329.00 per month
 (rent paying) : \$359.00 per month
- (e) With four dependents:
 (not paying rent) : \$341.00 per month
 (rent paying) : \$371.00 per month
- (f) With five dependents:
 (not paying rent) : \$354.00 per month
 (rent paying) : \$384.00 per month
- (g) With six dependents:
 (not paying rent) : \$367.00 per month
 (rent paying) : \$397.00 per month
- (h) With seven dependents:
 (not paying rent) : \$379.00 per month
 (rent paying) : \$409.00 per month
- (i) With eight dependents:
 (not paying rent) : \$391.00 per month
 (rent paying) : \$421.00 per month