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**The Inter-American Legal Services Association:  
Promoting the Role of Law in Social Change  
in Latin America and the Caribbean\***

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AND  
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I. INTRODUCTION

Lawrence Friedman, the prominent legal scholar, observed some years ago that:

[L]egal systems are clearly a part of political, social and economic development, just as are educational systems and other areas of culture. No major social change occurs or is put into effect in a society which is not reflected in some kind of change in its laws. Legal institutions are responsive to social change; moreover, they have a definite role, rather poorly understood, as instruments that set off, monitor, or otherwise regulate the fact or pace of social change.<sup>1</sup>

The Inter-American Legal Services Association (ILSA) was founded on the belief that the law can and should be used as an instrument to advance social change. ILSA's principal goal is to se-

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1. Friedman, *Legal Culture and Social Development*, 4 LAW & SOC. REV. 29 (1969).

cure effective "access to justice"<sup>2</sup> for the poor in Latin America and the Caribbean. In this context,

the words "access to justice" . . . serve to focus on two basic purposes of the legal system—the system by which people may vindicate their rights and/or resolve their disputes under the general auspices of the state. First, the system must be equally accessible to all, and second, it must lead to results that are individually and socially just.<sup>3</sup>

The purpose of this article is to describe ILSA's organizational structure, history, objectives and activities, and towards that end, to explore some of the conceptual problems underlying the discussion of the role of law in social change in Latin America and the Caribbean, outline the current status of legal services for the poor in these regions, and examine the rationale for supporting legal services programs.

## II. WHAT IS ILSA?

ILSA is an inter-American institution—created under the auspices of the Inter-American Juridical Committee (IJC), the principal juridical organ of the Organization of American States (OAS)—that supports organizations which deliver legal services to the poor in Latin America and the Caribbean and are based in these regions. ILSA was created on December 20, 1978, as a private, nonprofit corporation, under the laws of the District of Columbia. Headquartered in Washington, D.C., ILSA provides most of its services through two Regional Offices, located respectively for Latin America and the Caribbean in Bogota, Colombia, and Georgetown, Guyana, and the Office of Technical Assistance, in Santiago, Chile. These offices are directed and staffed by nationals of the countries in which they are located.

ILSA is governed by a Board of Directors, composed of distinguished lawyers, scholars and judges from all regions in the Western

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2. For a general discussion of the "access-to-justice approach" to legal reform, see Cappelletti & Garth, *Access to Justice: The Worldwide Movement to Make Rights Effective, A General Report*, in 1 M. CAPPELLETTI ACCESS TO JUSTICE 5-54 (1978).

3. *Id.* at 6.

Hemisphere.<sup>4</sup> It is independent of all governments and interest groups.<sup>5</sup>

### III. CONCEPTUAL PROBLEMS

#### A. *Latin America and the Caribbean: Heterogeneous Regions*

Discussing the relationship of legal services to social change in Latin America and the Caribbean involves a variety of conceptual problems. The most obvious is the very heterogeneity of these regions. The boundaries between countries were chosen almost as arbitrarily as those of nineteenth century colonial Africa, and, like Africa, the major characteristic shared by the various countries comprising this bloc is a colonial past.

Insofar as each colonial empire represented a stage in the growth of mercantile capitalism in Europe, similar structural features, such as the plantation or latifundium, could be isolated throughout the cultural complexities of the region and regarded as evidence of the uni-

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4. As of June 1980, the following individuals serve on the Board of Directors: Luis Bates Hidalgo (Chile), *ILSA Technical Director*, Professor of Law and Director of Clinical Legal Education Program (Department Práctica Conjunta y Asistencia Legal, DEFAL), Catholic University of Chile; Mario R. Chavez, Attorney and former Director of the Peoples Law Office (Bufete Popular) of the University of San Carlos; David J. Dodd (U.K.), *ILSA Research Director*, Professor of Sociology, Fairleigh Dickenson University and former co-director of an eighteen-month evaluation of the Guyana Legal Aid Center; Sir William Douglas (Barbados), Chief Justice of the Supreme Court and member of the Inter-American Juridical Committee; Winston McCalla (Jamaica), Solicitor, Professor of Law and former Director of the Legal Reform Division, Ministry of Justice; William D. Rogers (USA), partner at Arnold & Porter, Washington, D.C. and former Under-Secretary of State for Economic Affairs and Assistant Secretary of State for Inter-American Affairs; Seymour J. Rubin (USA), *ILSA President and Chairman of the Board*, Executive Vice President and Executive Director of the American Society of International Law and member of the Inter-American Juridical Committee; David M. Trubek (USA), Associate Dean for Research, School of Law, University of Wisconsin; Fernando Umaña Pavolini (Colombia), *ILSA Latin American Regional Director*, Director of the Center of Research for Defense of the Public Interest (Centro de Investigaciones Pro Defensa de Intereses Públicos, PROPÚBLICOS); Stephen Zamora (USA), Professor, Bates College of Law, University of Houston; Isidoro Zanotti (Brazil), Consultant, Legal Division, Organization of American States; Frederick H. Zemans (Canada), Professor, Osgoode Hall Law School, York University and Founding Director of Parkdale Community Legal Services (first store-front law office in Canada). Miles G. Fitzpatrick (Guyana), newly appointed Caribbean Regional Director, joined the Board in September, 1980.

5. ILSA's operating expenses have been financed thus far by a three-year grant, which terminates in August 1981, from the Agency for International Development. ILSA seeks financial support for its future operations, and those of its legal services programs, from other governments, development institutions, charitable foundations, bar associations and individuals. The Internal Revenue Service has classified ILSA as a § 501(c)(3), tax-exempt organization.

formity of a collective economic experience and to some extent a fundamental social reality. Since then, however, there has been considerable diversification. In Latin America, some countries have achieved a certain degree of industrialization; others have remained predominantly agricultural. Some have maintained democratic political structures; others have preferred dictatorships. Some have experienced violent upheavals, but in only a few instances have these been followed by enduring, radical change in the socio-legal environment. Consequently, not only are there great differences in cultural tradition and stages of political development among the countries of Central and South America, but great differences also in the relationship between the various sectors of poverty and the legal system within each of them and in the resulting modes of adaptation employed by groups of indigents, which have produced unique forms of an indigenous subculture.<sup>6</sup>

In the Caribbean, with the important exception of Cuba, there have been few radical changes, although recent events, as in Grenada, suggest future possibilities. This may be due in large measure to the fact that most territories—certainly the English-speaking ones—have only recently achieved their political independence and are therefore only now having to face the problem of how to transform a legal system, established originally as a control mechanism, into the instrument for social and economic development. Many have not sought to change it, preferring to retain its traditional function. Others, like Barbados and Jamaica, have begun to introduce new elements, both of legislation and of procedure, into their systems without undermining their fundamental adherence to the “rule of law,”<sup>7</sup> which they inherited—at least in principle—from their colonial experience. But as in Latin America, the formal legal systems necessarily reflect, although they sometimes also inhibit, the prevailing political economy. And, as both Steiner and Lynch have shown, the systems of legal education and of the allocation of legal resources are geared more or less rationally to attend to the fulfillment of the

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6. If the term “legal culture” may be taken to refer to the sociological characteristics of a legal tradition which influence the ways in which the formal legal system is used and applied (and thus its effect on society), the notion of a legal subculture is of a specific social group within the boundaries of that culture that nevertheless differs from it regarding legal attitudes, sentiments and normative behavior in a distinct and significant manner. See A. PODGORECKI, *LAW AND SOCIETY* 87-88 (1974).

7. For a general discussion of this topic, see N. Marsh, *The Rule of Law as a Supra-National Concept*, in *OXFORD ESSAYS IN JURISPRUDENCE* 223-64 (A. Gust ed. 1961).

goals defined by the dominant political ideology as desirable and important for the development of the country.<sup>8</sup> These goals, in most territories of the region, represent the prevailing values and beliefs of small, ruling minorities and are expressed in the decisions of the local courts. This has serious implications, of course, for the relationship of the poor to the legal system. Marginality is their historical condition, constitutionally guaranteed.<sup>9</sup>

### B. *The Law as an Obstacle to Social Change*

The result, on the whole, has been a deep and permanent estrangement between citizens and the law, encouraged by a popular tradition that regards law as an obstacle to be surmounted rather than as an avenue for access. This tradition, in turn, has been reinforced by an apparent disregard for the "rule of law" as demonstrated by those members of the ruling class (civilian and military) who installed themselves in office by other than democratic means, thus contributing to the occasionally acute political instability (by North American and Western European standards at least) that has continued to characterize the region as a whole. As Pendle wrote:

Latin Americans . . . are impatient for European caution and of the European respect for the law. In colonial times, the laws were frequently violated—indeed, colonial legislation governing economic activities was often so ill-conceived and so inimical to the development of natural resources and to the fulfillment of common desires, that its violation became almost a necessity, and contraband was

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8. See Steiner, *Legal Education and Socio-Economic Change: Brazilian Perspectives*, 19 AM. J. COMP. L. 39 (1971); Lynch, *Lawyers in Colombia: Perspectives on the Organization and Allocation of Legal Services*, 13 TEX. INT'L L.J. 199 (1978).

9. Even as Independence throughout Latin America heralded the triumph of new ideas over old, it was accompanied by the installation of inappropriate legal documents to guide the nations' future. As Beals wrote:

If there is one single thing that has been conducive of tragic disorder in Latin America for more than a hundred years, it is precisely that the new independent nations adopted unworkable constitutions based on that of the United States. In countries with such different traditions, experience, and social systems, such documents were and still are unworkable. The contradictions have promoted many military takeovers. Even in those rare instances when such absurd constitutions could be enforced, they have not contributed to the welfare of the people—unprepared and uninformed—but have accentuated the rule of the army, the Church, and the large wealthy landholders.

C. BEALS, *EAGLES OF THE ANDES: SOUTH AMERICAN STRUGGLES FOR INDEPENDENCE* 133 (1963). See also A. WHITAKER, *THE UNITED STATES AND THE INDEPENDENCE OF LATIN AMERICA, 1800-30* (1964).

normal. Independence . . . did not change those habits. There remained a general and enduring discrepancy between the law and actual life.<sup>10</sup>

In the more recently independent nations of the English-speaking Caribbean, constitutions drafted in agreement with the colonial office in London continue to dominate, and not to reflect, the shape of life in that region. Only in Guyana, and now in several of the smaller islands of the Eastern Caribbean, is there talk of preparing new constitutions to try to incorporate more adequately the "basic needs" of the population of those countries. Consequently, the notion of "a discrepancy between the law and actual life" is equally visible in the English-speaking Caribbean. As one authority observed:

Legal institutions illustrate how the gulf between ideal and reality divides West Indian classes. If law in the British Caribbean is "English law in all its stages of development," a West Indian judge finds it "hopelessly inadequate to fulfill the requirements of our society [because it is] unrelated to the verities of our life, economy, and customs.

Though suffrage and jury service are in theory open to all, law-making and law-enforcing agencies remain in elite hands and reflect elite social views . . . . The masses see formal law as an elite weapon and the policy as their natural enemies . . . .

In Court, unfamiliarity with the forms, if not outright illiteracy, gravely disadvantages the folk litigant. He finds legal aid costly and often futile; for the whole system seems to conspire against him.

The mass of West Indians regard law as an "alien thing, not felt as applying to their daily life because there are so many basic points at which it runs counter to their habits of thought." Identifying the law with elite oppression, they maintain a solid front against it. Embroiled country folk seldom invoke legal processes . . . .

Similar circumstances exist elsewhere, to be sure . . . . What distinguishes Caribbean legal systems is that those discriminated against constitute the great majority of West Indians.<sup>11</sup>

Though perhaps overstated, particularly in light of some recent law reform activities in Barbados and Jamaica, this account still portrays with considerable accuracy the distance that has historically

10. G. PENDLE, *A HISTORY OF LATIN AMERICA* 224 (1976).

11. D. LOWENTHAL, *WEST INDIAN SOCIETIES* 101-03 (1972).

separated the West Indian masses from the institutions imported to control them. It also puts the role of legal assistance in an immediate social context very similar to that now existing in many parts of Latin America, since in both cases the populations to which it is being offered, if only nominally, have lived for generations outside of access to any form of law other than the one that locked them up or confiscated their property.<sup>12</sup> Fear of the law, together with some degree of contempt for its application and the belief that a majority of its practitioners are "crooked," has been and continues to be a widespread attitude among the poor in many countries of Latin America and the Caribbean.

That attitude, if it is as common as we might expect, makes problematic the notion of "effectiveness" when applied to legal systems, especially if one is thinking in terms of using those systems for purposes of development or change; it calls into question, and puts into perspective, the very meaning of the word. If, as Dias argues, effective legal systems are those in which "there exists a high degree of congruence between legal rules and human conduct,"<sup>13</sup> then the available evidence indicates that, to the contrary, legal systems in the region are by these standards extremely ineffective. First, they have developed along different lines than those implied in this model, and secondly, they have done so to the virtual exclusion of the majority of the citizens over which they exercise jurisdiction,<sup>14</sup> with the result that various alternative systems have come into being which have become as "institutionalized" as any aspect of the official system they now seek to evade.<sup>15</sup> The effectiveness of official legal institutions lies elsewhere; for example, in jurisdictions where a government

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12. See Dodd, *The Role of Law in Plantation Society: Reflections on the Development of a Caribbean Legal System*, 1979 INT'L J. SOC. L. 7.

13. Dias, *Research on Legal Services and Poverty: Its Relevance to the Design of Legal Services Programs in Developing Countries*, 1975 WASH. U. L. Q. 148. Dias further argues that "an effective legal system will be characterized by minimal disparity between the formal legal system and the operative legal system." *Id.*

14. For a good discussion, see Wiarda, *Law and Political Development in Latin America*, 19 AM. J. COMP. L. 434 (1971).

15. For a perfect illustration of this, see Rosenn, *The Jeito: Brazil's Institutional Bypass of the Formal Legal System and Its Developmental Implications*, 19 AM. J. COMP. L. 514 (1971). The point has been made by others, together with the suggestion that such "informal systems be studied for the insights they would afford to a broader understanding of the role of law in social change in Latin America. For an example of such a study, see K. Karst and K. Rosenn, *Legal Institutions in the Caracas Barrios: Law-in-Society Case Study*, in LAW AND DEVELOPMENT IN LATIN AMERICA 575-628 (1975).



seeks to preserve its hegemony by exerting any or all of the following: (1) political control over the judicial decision-making process; (2) educational control over entrance qualifications and curriculum content at the law schools; and (3) social control, through the legal process, over the general population to whose members its workings should preferably remain unintelligible. And, on those occasions when the usual mechanisms of control are insufficient, the legal system may still be used to give an appearance of legitimacy to the tactics of terror.

### *C. Limitations of Legal Services*

Bearing in mind the historical ineffectiveness of Latin America and Caribbean official legal institutions as instruments of social change to protect the rights of the poor and improve their well-being, it becomes necessary to analyze more closely the traditional conception of legal aid; namely, to ensure that no individual is deprived of legal advice or representation for lack of financial resources. This conception is based on a liberal-capitalist premise that "legal services can be . . . a means to enable the poor to compete effectively within a neutral legal system and perhaps even as a means of assuring the neutrality of the system itself."<sup>16</sup> This premise reflects two further assumptions. The first is that the operative, as distinguished from formal, legal system is in fact neutral. This assumption already has been called into question by the previous discussion. The second assumption is that improved access to the legal system—that is, the ability "to compete"—will lead to results that are just, both in a legal, and in the broader socio-economic sense. This assumption requires further examination, since it directly raises the issue of whether legal services for the poor, even the most traditional kind, can promote social change.

To assess the role of legal services for the poor in promoting social change, it is necessary first to differentiate among the variety of legal services programs that exist in Latin America and the Caribbean and elsewhere. Some models are more change-oriented—or at least hold out the promise of greater change—than others.

Professor David M. Trubek, a noted scholar in the field of law and development in Latin America and long-term observer of legal services programs there and in the United States, has suggested a typology for legal services programs that groups programs into two

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16. Magavern, Thomas & Stuart, *Law, Urban Development and the Poor in Developing Countries*, 1975 WASH. U.L.Q. 102.

model types.<sup>17</sup> He examines five variables: (1) type of claims; (2) principles of case selection; (3) advocacy arenas; (4) advocacy modes; and (5) client relationships.

The first type of legal services, A, is limited to defense of individual claims, reactive, exclusively operates in courts, uses only formal legal advocacy, and has paternalistic relationships with its clients. The second type, B, handles both individual and collective claims, develops advocacy strategies, seeks out cases and clients, uses a variety of advocacy in several arenas, and encourages participation in advocacy efforts.<sup>18</sup>

This article will refer to the Type A legal services program as "traditional," and to the Type B as "change-oriented."

The discussion further below will focus on the variety of legal services programs existing in Latin America and the Caribbean, as well as examine their role in social change;<sup>19</sup> although it should be noted that the prevailing pattern of legal services programs in these regions is the traditional type.<sup>20</sup> The purpose of the remainder of this section is to identify some of the limitations to social change through law, recalling of course that these limitations will be greater for the traditional type of legal services program than for the "change-oriented type" now emerging.

Those seeking to promote legal services must first recognize that poorly designed programs can have negative effects. As one authority observed:

Legal aid programs can become just a "band-aid" approach to the . . . [legal] problems of the poor, if programs are not truly responsive, research and reform conscious, and they do not successfully present and promote reform proposals to the legal profession, legal educators, and most importantly, governments, which are the only institutions capable of providing adequate resources for the extensive programs of legal aid that need to be developed and having authority to act on law reform proposals. Legal aid programs can result in increasing the burden of overloaded court systems and adding to antagonisms between the poor and the rich.<sup>21</sup>

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17. See generally Trubek, *Unequal Protection: Thoughts on Legal Services, Social Welfare, and Income Distribution in Latin America*, 13 TEX. INT'L L.J. 243, 256-60 (1978).

18. *Id.* at 258.

19. See discussion *infra* at p. 547.

20. See Trubek, *supra* note 17, at 259.

21. Valdez, *Developing the Role of Law in Social Change*, 7 LAW. AM. 1, 16 (1975).

There also are practical limitations to legal services programs, especially the traditional type. They may only make sense, as vehicles for social change, in small and relatively homogeneous societies like Barbados or Grenada, where the immediate problem is that of not being able to afford access and where the costs of providing this type of legal service are not likely to be prohibitive—although they may need, and indeed have needed, to be met at least in part by outside sources. The main problem in the Caribbean is finding lawyers willing to do the work. In the infinitely larger societies of Latin America, the situation is altogether different, making the provision of some sort of “group representation” legal services programs or “civic assistance centers” oriented toward distributional advocacy, citizen education, and community organizations a more logical and cost-effective approach.

Another problem, too often overlooked, is that lawyers who organize legal services for the poor are often viewed by governments as political opponents.<sup>22</sup> And in the more global sense, these “political” limitations on legal services are translated into ideological ones which impact on the type of change that one is trying to promote through legal services.

Latin America and Caribbean intellectuals, professionals and government planners and officials—the principal parties engaged in the design and delivery of legal services for the poor—are divided basically into two ideological groups. The first are the reformers, who have a liberal or conservative tradition. The second are the radicals, who have a Marxist tradition. This division is the legacy of the 1960s, the so-called “development decade” in Latin America and the Caribbean, in which two external ideologies competed for acceptance: developmentalism, as propounded by the United States; and socialism, or Marxist-Leninism, as advocated by Cuba.

David Trubek and Marc Galanter have written a touching and serious epitaph for developmentalism as a legal concept.<sup>23</sup> In an account that is not without its own internal ironies, they argue that it was the product of good intentions misconstrued and misapplied, denuded of substance by the failure to appreciate the limitations of “legal liberalism,”<sup>24</sup> even in the United States, and by the failure to

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22. *But see* Berman, *The Cuban Popular Tribunals*, 69 *COL. L.R.* 1317 (1969).

23. Trubek & Galanter, *Scholars in Self Estrangement*, 1974 *Wis. L.R.* 1062.

24. *See generally* J. GARNER, *LEGAL IMPERIALISM* (1980).

consult the supposed beneficiaries—the masses of rural and urban poor, Latin America's "wretched of the earth"—whose access to, and participation in, the program of development designed for their uplift were characteristically minimal.

It was a missionary era, full of optimism about theories in progress that gradually soured as they were found to contain fundamentally inaccurate perceptions of the legal cultures and social structures which they had been intending to change. Thus, economists, political scientists, sociologists, and lawyers, with an inappropriate emphasis on the "rational" thought processes of Western social science (the "engineering" mentality of development planners), and a consequent belief in unilinear development that proved naive, all conspired to ignore some of the basic realities of Latin American societies, not the least of which were the differences that existed between them in spite of what were their obvious similarities.

These realities were also different, often profoundly, from those of North America. This point was often missed by development sociologists and planners, perhaps persuaded by the enthusiasm of people throughout the subcontinent for American-style consumerism or their continuing efforts to migrate north that they would—or should—think like Americans, too. But that was not so easily accomplished. North Americans had grown up with a style and quality of thought that had matured with the industrial and technological revolutions. This was how they now experienced the world; it was their reality. In Latin America, on the other hand, these revolutions were imported, including legal theory and method. It is a problem made additionally complicated by the fact that higher education elsewhere, as in Britain or the United States, tends to put its "Third World" graduates into impossible situations.<sup>25</sup> Thus, they return to their own country equipped with new ideas and techniques which they are unable to use effectively because of the lack of resources or of interest in academic or political circles, and decide, instead, to opt for one of the more radical alternatives voiced by their peers. These

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25. In the region, law schools have tended to remain bastions of tradition and conservatism. They continue to reflect very closely the style and structure of the status quo, producing graduates for careers that will render them marginal to the daily lives and aspirations of the majority of the people. That has been the case historically in Latin America, and it is also the case in the Commonwealth Caribbean where the curricula prepared for the recently opened law schools in Trinidad and Jamaica offer little change so far in the typical course content of the School of Legal Education in London, and turn out, as a result, the same type of lawyer.

alternatives or, rather, the fact of their increased intellectual status, reflect the new political circumstances which have developed throughout Latin America and the Caribbean, giving rise to new counterdefinitions.

Some proponents of these counterdefinitions have deliberately sought to create non-Western, indigenous categories of thought with which to articulate their own experience. Most, however, have opted for the Marxist model of explanation which opposes the theory of modernization with the theory of imperialism. The former assumes "growth" to be both desirable and possible without fundamental structural change, given appropriate levels of technocratic control and productivity; the latter regards that as merely "the development of underdevelopment"<sup>26</sup> and takes the view that major structural change is essential for the inevitable "revolution" and that nothing else will do.

But, there is also an emerging view amongst academics that, like the "stages of development" theory, the Marxist model does not adequately reflect the realities of Latin America and the Caribbean either, except insofar as it posits underdevelopment as an historical process and the direct and inevitable consequence of economic dependency. Wiarda writes that "as a general theory of analysis, the Marxian framework still leaves too many questions unsatisfactorily answered, in the eyes of many Latin American scholars, and it is probably too narrow, restrictive and closed to encompass fully the complex dimensions of national development . . ." <sup>27</sup> Ribeiro takes the argument one step further. He suggests that both the developmentalist and the Marxist approach to explanation rest on essentially arbitrary and conservative views of social reality and that both rely heavily on irrelevant political perspectives in prescribing strategies for development.<sup>28</sup>

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26. Andrew Gunder Frank, the author of the felicitous phrase, also attacks what he regards as the false "liberal" notion of dual societies in Latin America, in which one is seen as existing "marginally"—who, in fact, often constitute a majority of the population as being in that situation precisely because of their structural relationship to the social and political economy of the "national bourgeoisie" and because of its structural dependence on international capitalism. A. FRANK, *Sociology of Development and Underdevelopment of Sociology*, in *LATIN AMERICA: UNDERDEVELOPMENT OR REVOLUTION* 21-94 (1969). And for the liberal-view, see F. GIL, *LATIN AMERICAN-UNITED STATES RELATIONS* (1971).

27. Wiarda, *Law and Political Development in Latin America*, 19 *AM. J. COMP. L.* 434, 436 (1971).

28. See D. RIBEIRO, *THE AMERICAS AND CIVILIZATION* (1979).

The point, as Wiarda notes, is that the process of change in Latin America has a "special" nature which must be studied in its own terms, that is, in terms of the particular contexts within which it has taken place. He writes:

Change in Latin America . . . has ordinarily occurred gradually and incrementally—at times sporadically and most unevenly and frequently all but imperceptibly—through adaptation and assimilation, within a framework that combines and seeks to reconcile traditional and modern rather than implying the triumph of transcendence of the one over the other, or of one class or "stage" or epoch over another. As regards law, for example, . . . the experience of the North American or Western European countries—that is, historically of constantly adopting new legal principles from current needs at one end and tending to slough off the old and outdated one at the other—does not really apply in Latin America, for while new rules and regulations have been repeatedly tacked on, the old ones have seldom been discarded.<sup>29</sup>

Thus, both versions—or myths<sup>30</sup>—of the developmental process carry specific definitions of reality which may not accord at all with those whose interests they purport to represent. A central feature of their view of the world, for instance, is the ideal of productivity which conceives of man's ultimate purpose as the transformation and domination of his natural surroundings, either for his own individual self-realization or for that of the state to which he belongs. This is a notion, however, that in sharp contradiction to indigenous religious and philosophical traditions among many peoples of the region for whom the price of modernity—whether in Conte's or Marx's vision of the industrial society—has been the introduction of rationality and the increasing secularization of the religious impulse in daily life. Thus, the

countermodernizing impulse has expressed itself in an interesting merging of two strands of anti-gringo ideology—the anti-Americanism of Marxist ideology, and the much older anti-Americanism of cultural resistance. The latter has commonly been called *Arielismo*. It posits Ariel, the "aery spirit" of a superior Latin civilization, against the crass materialism of the North American Caliban. The United States thus appears as the enemy in a double sense. It is a political enemy in its role as "imperialist

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29. Wiarda, *supra* note 14, at 462.

30. For a useful discussion of the "myths" of development, see P. BERGER, *PYRAMIDS OF SACRIFICE* 7-31 (1976).

metropolis," and a cultural enemy as, classically, the barbarian before the gate.<sup>31</sup>

Whatever the correctness of this view, it is necessary to understand its logic, particularly with regard to any future attempts to assist or intervene in programs designed to enable people to improve the quality of their lives. One must be aware, in any discussion of "basic human needs," of the destructiveness which the imposition of these new realities may potentially have on the capacity of many people to live in a meaningful world. Before it was sufficient to abide by the meanings assigned to the world by traditional interpretations of events and experiences; in a modern society, there is a choice, or at least a belief in the existence of choice. The change from one system of thought to the other involves nothing less than transforming the structure of consciousness.

#### D. *Concluding Observations on Conceptual Problems*

A set of tentative conclusions emerges to inform the subsequent discussion of the role of law in social change in Latin America and the Caribbean:

- (1) generalizations must be qualified by a recognition of the heterogeneity of these regions;
- (2) the law may function as an obstacle, as well as an instrument, to social change; so that mere access to official legal institutions is an insufficient objective if the goal is to improve the well-being of the poor;
- (3) traditional legal aid programs, while important, have their limitations; and efforts must be made to develop more change-oriented models;
- (4) in discussing the role of law in *social change*, one must be sensitive to the political and ideological undertones of this term; and related to this point and perhaps most important of all
- (5) legal services programs must reflect the socio-economic and political realities of the communities and countries in which they operate, and especially, they should be sensitive to the cultural and political concerns of their clients, and hopefully, invite their participation in program design and management.

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31. *Id.* at 43.

## IV. LEGAL SERVICES AND SOCIAL CHANGE

Having noted some conceptual difficulties underlying the discussion of law and social change, it is time to return to the theme presented above in the Introduction and which provides the principal rationale for ILSA's existence: legal services do promote desirable social change. The purpose of this section is to analyze this causal relationship to understand better how legal services promotes social change, and in this context, what type of change it promotes. The term "social change" is used broadly here to embrace political, economic and other change that improves the well-being of the poor.

For purposes of this analysis, it is useful to view social change in three dimensions, each of which provides a separate rationale for supporting legal services activities as instruments for improving the well-being of the poor in Latin America and the Caribbean. The first rationale is a jurisprudential one; namely that legal services makes operational the legal principle that "all persons are equal before the law." So long as people are incapacitated for financial reasons from gaining access to the formal legal system, equality before the law remains an empty promise and undermines the proper functioning and integrity of the legal system. One of the assumptions upon which Western legal systems are structured is that all citizens have equal access to information about the legal system's functioning and to expert professional advice and service, when needed. To the extent that a legal system is structured around that assumption, the system's effective operation depends upon equal access. To the extent that access is not equal, the system's integrity is compromised and the system fails to perform effectively the dispute settling, social ordering, and social control functions assigned to it.<sup>32</sup>

While the jurisprudential rationale is deemed to have inherent value, it also points to a second rationale for legal services, which is a developmental one.<sup>33</sup> For as one authority has observed,

[a] fundamental problem in the process of social change is dualism in the law, practiced purposefully by the ruling class in a society or resulting from unequal access to and representation before the legal system. Unequal access to and representation before the legislative forums which make the law, the tribunals which inter-

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32. Metzger, *Legal Services to the Poor and National Development Objective*, in COMMITTEE ON LEGAL SERVICES TO THE POOR IN THE DEVELOPING COUNTRIES, LEGAL AID AND WORLD POVERTY, 3, 4 (1974).

33. See generally *id.* at 5-15.



pret the law and the bureaucracies which administer or implement the law is a serious obstacle to social change in Latin America and the Caribbean.<sup>34</sup>

Legal services programs, to the extent that they make equality before the law an operational concept and combat dualism in the law, contribute to political and socio-economic development. As to political development, legal services programs first make governments more accountable. "If there is judicial review of executive action, it can be an important limiting factor on arbitrary power, especially in countries in which legislative institutions have atrophied."<sup>35</sup> Legal services programs also can increase popular participation in the governmental process by educating the community to the functioning of the legal and political systems and their rights under these systems. Having gained access to the formal legal system—for example, in a judicial forum to settle a dispute with a landlord—a litigant's experience may contribute to continuing use of the legal system and to the instrumental use of other institutions and facilities of the national political authority, including nonjudicial facilities. It may erode the passivity, even the hostility, with which many of the poor view governmental authority. And most significantly from the perspective of social change, the use of the legal system may reveal common interests among the poor that can serve as focal points for political organization in furtherance of those interests or for the creation of non-political voluntary associations or economic organizations, such as production or marketing cooperatives.<sup>36</sup> Finally, "[a] legal services program with adequate resources to become national in scope may help to develop an effective national legal system and political culture, contributing significantly to the effective penetration of national legal norms. . . ." <sup>37</sup>

Legal services programs also foster economic development. First, the effective penetration of national legal norms contribute to the elimination of such traditional restraints as restrictions on the alienation of land and on credit availability.<sup>38</sup> Perhaps most significant from the perspective of socio-economic development, legal services programs may help open the way to participatory democracy and implementation of social welfare and regulatory legislation of which

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34. Valdez, *supra* note 21, at 4.

35. *Id.* at 15.

36. Metzger, *supra* note 32, at 14.

37. Valdez, *supra* note 21, at 15.

38. *Id.*

the poor are primary beneficiaries, and thereby contribute to more effective enforcement of agrarian reform laws, protective labor legislation, rent and price control legislation, and pension laws.<sup>39</sup> Thus legal services contribute to "meeting basic needs," which has evolved in the past decade to become the principal operational concept underlying bilateral and international development assistance.<sup>40</sup>

The basic needs approach to development implies the participation of the people in making the decisions which affect them through organizations of their own choice. This right of participation is not, and should not be construed to be, limited to societies with democratically elected governments. Centralized, nondemocratic governments must, if they are to survive without brutal repression, maintain constant contact with the people whom they govern.

Without effective implementing structures, legislation designed to benefit the poor is often without discernable or permanent result. Government bureaucrats often are physically and culturally distant from the intended beneficiaries of their programs, and such programs may fail not so much because of obstructionism but because implementing procedures are not suited to the needs of the people being assisted. A legal services program which involves the participation of the poor in pointing out needed areas of procedural and substantive reform may ensure actualization of measures often proposed by well-intentioned reformers who are far from the exigencies of life among the poor.

On another level, effective participation of the poor in the governmental process contributes to the broader economic and social progress. Persons whose abilities are not utilized become a charge on society, in one way or another, rather than contributors to it. Giving people increased access to land, water, education and other social services creates a new pool of human resources from which a society can draw. The integration of immigrants and racial and ethnic minorities in the United States illustrates this principle. It is thus suggested that the sustained economic and social development of the

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39. *Id.* For two excellent discussions of the potential for legal services to improve the well-being of the poor by promoting effective implementation of social welfare legislation, see Trubek, *Unequal Protection*, *supra* note 17; and Thome, *Legal and Social Structures and the Access of the Latin American Rural Poor to the State Allocation of Goods and Services*, 2 RESEARCH IN L. SOC. 251 (1979).

40. See generally ASIL, *The Role of Law in Social Change in the American Republics 41-46* (August 1978) (Final Report to AID) (unpublished, available at cost from the ASIL); [hereinafter cited as *Role of Law Report*].

Western Hemisphere depends on the creation of just and equitable legal systems that insure the participation of all citizens.

The final dimension of social change, providing a third rationale for legal services, is human rights. These rights embrace first those political and civil liberties felt basic to humane societies: the right to counsel, to a fair trial, to reasonable equality of opportunity to present one's case, and to have prompt and equal justice.<sup>41</sup> They include the elements which precede and follow judicial proceedings: ability to investigate, to establish facts, to present facts and argue the law, and to have judgments and law enforced. They comprehend a methodology, whether through legal aid, group representation, or,

41. The right to effective legal representation is recognized in the American Convention on Human Rights, OAS Treaty Series, No. 36 (OAS Official Records, OEA/SER.A/16, English) 1-21.

#### Article 8

1. Every person has the right to a hearing, with due guarantees and within a reasonable time, by a competent, independent, and impartial tribunal, previously established by law, in the substantiation of any accusation of a criminal nature made against him or for the determination of his rights and obligations of a civil, labor, fiscal, or any other nature.
2. Every person accused of a criminal offense has the right to be presumed innocent so long as his guilt has not been proven according to law. During the proceedings, every person is entitled, with full equality, to the following minimum guarantees:
  - a. the right of the accused to be assisted without charge by a translator or interpreter, if he does not understand or does not speak the language of the tribunal or court;
  - b. prior notification in detail to the accused of the charges against him;
  - c. adequate time and means for the preparation of his defense;
  - d. the right of the accused to defend himself personally or to be assisted by legal counsel of his own choosing, and to communicate freely and privately with his counsel;
  - e. the inalienable right to be assisted by counsel provided by the state, paid or not as the domestic law provides, if the accused does not defend himself personally or engage his own counsel within the time period established by law;
  - f. the right of the defense to examine witnesses present in the court and to obtain the appearance, as witnesses, of experts or other persons who may throw light on the facts;
  - g. the right not to be compelled to be a witness against himself or to plead guilty; and
  - h. the right to appeal the judgment to a higher court.
3. A confession of guilt by the accused shall be valid only if it is made without coercion of any kind.
4. An accused person acquitted by a nonappealable judgment shall not be subjected to a new trial for the same cause.
5. Criminal proceedings shall be public, except insofar as may be necessary to protect the interests of justice.

more broadly, through substantive and procedural law reform, which will make possible and practicable the enforcement of these rights.

Legal services also protect social and economic rights, including the rights to work, health, material security, and education.<sup>42</sup> As expressed by two authorities:

It has become commonplace to observe that *affirmative* action by the state is necessary to ensure the enjoyment by all of these basic social rights. It is therefore not surprising that the right of effective access to justice has gained particular attention as recent "welfare state" reforms have increasingly sought to arm individuals with new substantive rights in their capacities as consumers, tenants, employees, and even citizens. Indeed, the right of effective access is increasingly recognized as being of paramount importance among the new individual and social rights, since the possession of rights is meaningless without mechanisms for their effective vindication. Effective access to justice can thus be seen as the most basic requirement—the most basic "human right"—of a modern, egalitarian legal system which purports to guarantee, and not merely proclaim, the legal rights of all.<sup>43</sup>

#### V. ILSA'S HISTORICAL ANTECEDENTS

Against this background, the suggestion was made to, and accepted by, the Inter-American Juridical Committee (IJC)—the principal juridical organ of the Organization of American States—that the IJC concern itself with the role of law in social change in the Americas.<sup>44</sup> The willingness of the IJC to deal with this topic was

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42. Cappalletti and Garth, *supra* note 2, at 8.

43. *Id.* at 8-9.

44. To a certain extent, the topic of the role of law in social change, conceived in terms of the law as a normative force as well as a regulatory one, and extended to include concepts of participation in law-formation as well as the more traditional subjects of representation and access, was a departure from the traditional work of the IJC. Its work, and that of its related organization, the U.N. International Law Commission, has generally been on topics in the field of international public or international private law which are more demonstrably international in their main aspects, and within more usual concepts of international legal expertise. Agendas have concentrated on such matters as state succession, on questions of sovereignty and of sovereign immunity, on definitions of interferences in the sovereignty of nations, or, on the private international law side, on draft conventions dealing with recognition of foreign judgments, on proof of foreign laws, and subjects such as those taken up by the Inter-American Conferences on Private International Law (CIDIP). Nonetheless, after some debate, the Juridical Committee decided (with all due reserves as to eventual outcome) to place the role of law in social change on its agenda, to designate a rapporteur, and to endorse further work on this topic.

consistent with its previous focus on issues of the law as it affects economic development, social progress, and human rights. Certain truisms surfaced immediately: that individuals, or groups of affected persons, ought to be able to comment effectively on how the norms which affect them are formulated, that they ought to be able to have a voice in the substantive as well as the procedural aspects of such norms, and that they ought to have access to means to ensure the rights conferred upon them are effectively implemented. These truisms are of fundamental importance in any rational definition of human rights.

The IJC long before had stated its legitimate concern with this aspect of human rights. Thus, in 1959, it said: "The relationship between the respect for human rights and the effective exercise of democracy is not only possible but evident, because democratic rule must necessarily be based on certain essential rights and freedoms."<sup>45</sup> The IJC considered certain rights and freedoms as comprehended within its statement—including free elections, freedom of thought and of expression, the right not to be subjected to arbitrary detention, and the right to *habeas corpus*. It is no indictment of that declaration that the list is unfortunately one much honored in the breach, rather than in the observance. But clearly, as early as 1959, the IJC had related human rights to its mandate, and had included within the concept of human rights a number of legal prescriptions. Among these were included measures designed to guarantee to all persons the right to be heard, the right to effective and equal representation, and antecedent to these, the right to have a voice in the formulation of the legal norms which shape a society.

In January, 1976, under the auspices of the IJC, the American Society of International Law (ASIL)<sup>46</sup> undertook a three-year study on the "Role of Law in Social Change in the American Republics," funded by the Agency for International Development (AID) and the Inter-American Foundation.

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45. C. Castilla, J., Joaquin, *La Obra del Comité Jurídico Interamericano*; Comité Jurídico Interamericano de Rio de Janeiro, Brasil (April 1966), p. 57. The statement has its origins in a study effectuated by the Committee at its 1959 Extraordinary Session, and was framed as a topic for discussion at the 1959 Quito Conference.

46. The ASIL is a professional association with over 5,000 members in some 100 countries, devoted to fostering the study of international law and promoting international relations based on law and justice. Having organized previously the three-year study on the "Role of Law in Social Change," *supra* note 40, the ASIL has assisted in the establishment of ILSA, under the three-year current grant from AID, by providing office space and related facilities such as photo-copying machines, as well as accounting and some administrative services.

The ASIL assembled a "Panel on the Role of Law in Social Change in Latin America and the Caribbean" (hereinafter Panel), chaired by Abelardo L. Valdez, whose deliberations took place over eighteen months. Five major conferences were sponsored during this period: in Washington, D.C. (October 13, 1976); in Barbados (March 15 and 16, 1977); in Bogota, Columbia (July 22 and 23, 1977); in Washington, D.C. (October 28, 1977); and in Port of Spain, Trinidad (March 14 and 15, 1978).<sup>47</sup>

The conferences, attended by individuals from sixteen countries of the Western Hemisphere,<sup>48</sup> began with research into and discussions of the extent and value of existing legal aid services to the poor, as well as explanations of the various legal services now being offered in the region. These conferences were the first occasions in which legal services practitioners and scholars and related experts from both Latin America and the Caribbean assembled to discuss subjects of mutual concern. That there was a lack of knowledge concerning programs in other countries—due to the absence of communication between the separate groups, despite cultural, political and economic similarities, and despite, in some cases, geographical proximity—was the most immediate and apparent observation made at these early meetings.

The chief thrust of the Panel's work was to ascertain, within the context of an inter-American program, what role law, legal institutions, and law-related facilities might play in increasing the participation of poor and otherwise disadvantaged persons in social, economic and political activities in Latin America and the Caribbean. The ultimate aim was to suggest steps for initiating new programs and improving existing programs in order to enhance the contribution of law-related activities to economic and social progress.

After the first Panel session, the broad objectives of the project were narrowed to an investigation of three main areas: legal aid (free or subsidized legal advice and representation to indigents who have problems that may be resolved in a judicial forum); group representa-

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47. Minutes of these meetings are on file at the ASIL, 2223 Massachusetts Ave., N.W., Washington, D.C. 20008. The Panelists participated and rendered advice without remuneration.

48. Most of the participants in these conferences were legal services practitioners or scholars. A list of the participants to these conferences is contained in Role of Law Report, *supra* note 40 at appendix 2. Most of ILSA's Board members participated in these conferences.

tion, or public interest law<sup>49</sup> (advocacy of collective interests of disadvantaged minorities such as Indians or women, as well as diffuse majorities, such as consumers and environmentalists, in legislative and administrative, as well as judicial, forums); and law reform<sup>50</sup> (improving substantive and procedural norms to benefit the poor). Country reports were commissioned on existing legal aid, group representation, and law reform activities as part of the Panel's investigation.<sup>51</sup>

The findings, conclusions, and recommendations of the Panel are summarized in a comprehensive report.<sup>52</sup> Information about existing legal services programs in Latin America is summarized below. Regarding its conclusions and recommendations, what is immediately significant was the finding that a more permanent organization be established to serve the purposes of information gathering, analysis, communication, sponsorship of international discussion, and coordination of efforts in the legal services field. In the first instance, it was deemed essential that there be established, in some permanent form, a means of obtaining and exchanging information on actions being taken or contemplated within the objectives of the Project so that experience gained in one country could be utilized in other nations. Moreover, the gathering, analysis, and exchange of information would help to create an informed and expert body of interested persons and institutions, which would promote valuable mutual support in a field which all too often lacks general public or professional interest. Thus, it was concluded that operational functions were vital—that there should be a means of coordinating work in the fields of legal aid, work in the public interest, and law reform, as well as of ensuring expert, sympathetic but objective analysis of costs and benefits,

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49. The term "public interest law," which came into vogue during the 1970's in the United States, may be inappropriate in Latin America and the Caribbean, where traditional legal theory holds that the state, by definition, promotes and defends the public interest. Thus the Panel chose to adopt the term "group representation programs."

50. Bolivia provides one example of how law reform can benefit the poor. The present land reform law needs to be revised to simplify procedures for obtaining legal title to rural properties, such as eliminating the requirement for a Supreme Resolution issued in La Paz. Currently it takes a *campesino* around eight years, at a minimum, to obtain title to his land.

51. Reports were received for Argentina, Bolivia, Chile, Colombia, Dominican Republic, Guyana, Jamaica, Peru and Uruguay, all of which are on file at the ASIL.

52. Role of Law Report, *supra* note 40.

priorities, and resources.<sup>53</sup> This recommendation received the full endorsement of the IJC, which on August 22, 1978, resolved

to support the important work which has been done to promote cooperation between lawyers, juridical and educational institutions and other organizations, for the purpose of reinforcing inter-American cooperation in the area of law and social change, and toward this end enthusiastically endorses the proposal establishing the Inter-American Legal Services Association.<sup>54</sup>

Following the formal incorporation of ILSA in December, 1978, the Committee resolved on February 9, 1979 "to take note with satisfaction of the creation of the Inter-American Legal Services Association and its work program which the Committee hopes will contribute to the objective of this resolution," namely, "to improve the welfare and development of the American Republics."<sup>55</sup>

As this brief historical account establishes, ILSA is firmly rooted in the inter-American system, and in the analyses, suggestions, and experiences of those who reside in the countries of Latin America and the Caribbean and who are actively involved in programs in legal aid, group representation, and law reform. It is important to recall that ILSA traces its origins to discussions within, and a decision by, the IJC, the principal juridical organ of the Organization of American States (OAS). Since this initial decision, each succeeding meeting of the Juridical Committee had heard a report on the progress of the work being done on the topic, gave its approval to that progress report, and maintained the subject on the agenda. Thus, ILSA's creation represents a judgment by an official body which is composed of eleven jurists, ten of whom are nominated by states of Latin America and the Caribbean. All are elected by the General Assembly of the OAS, and serve on the Juridical Committee in their individual capacities. ILSA grows out of a concern expressed by these jurists, with the deep knowledge of and desire for the social progress of their region. This is but a reflection of the predominantly Latin American and Caribbean composition of the Committee. It is thus an indigenous initiative, a fact which gives it authenticity and which promises a high degree of influence for such results as may ultimately be achieved.

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53. *Id.* at 12-13.

54. Role of Law Report, *supra* note 40, at appendix 2.

55. Valdez, *supra* at 17.



VI. CURRENT STATUS OF LEGAL SERVICES IN LATIN AMERICA  
AND THE CARIBBEAN<sup>56</sup>

A. Overview

In assessing the current status of legal services programs in Latin America and the Caribbean, it is important to recall the distinction between "traditional" and "change-oriented" legal services programs.<sup>57</sup> While a variety of classification schemes might be employed to describe existing legal services programs, they are unsatisfactory as predictive, analytical tools in that these descriptive categories are not reflective of the potential effectiveness of the type of program being described. One classification scheme, for example, differentiates among the type of service being provided; for instance, legal aid, group representation, and law reform. However, as ILSA's predecessor Panel discovered, this classification scheme, while a convenient working device, uses divisions that are in many cases arbitrary. The line between the three areas is far from impermeable;<sup>58</sup> many programs had elements of all three types of service. Fortunately, it is now believed that a combination of approaches is most effective from the perspective of social change.<sup>59</sup> Moreover, each type of service holds untapped potential as instruments of social change, and rather than being discarded, should be exploited more creatively. Similarly, a classification scheme that differentiates according to the type of provider—government, private, autonomous organization (formed exclusively for delivery of legal services or with broader purposes), bar associations or law schools (through clinical legal education programs)—is unsatisfactory as an analytical tool, since the type of provider is not predictive of the quality of a given

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56. It is beyond the scope of this article to describe the numerous legal aid, group representation and law reform programs that have been surveyed, both by the Panel and scholars. For a more detailed and comprehensive discussion of the current state of legal services in Latin America and the Caribbean, see F. Inzunza, *The Status of Legal Services in Latin America and the Caribbean*, in Role of Law Report, *supra* note 40, appendix 4; Knight, *Legal Services Projects for Latin America*, in COMMITTEE ON LEGAL SERVICES TO THE POOR IN DEVELOPING COUNTRIES, LEGAL AID AND WORLD POVERTY 77 (1974); Valdez, *supra* note 21; Onate *Mexico*, in F.H. ZEMANS, PERSPECTIVES ON LEGAL AID: A COMPARATIVE SURVEY 213-42 (1979); see also Role of Law Report, bibliography *supra* note 40.

57. See discussion *infra* at p. 557.

58. Role of Law Report, *supra* note 40, at 16.

59. See generally L. Bates Hidalgo, Reflections on Legal Assistance in Latin America 3-5 (1979) (unpublished paper presented at Seminar on Human Rights in the Andean Region, sponsored by the International Commission of Jurists).

legal services program or its effectiveness as an instrument of social change.

The discussion below will utilize the above mentioned classification schemes in order to describe briefly the type of legal services existing in the respective regions of Latin America and the Caribbean. But it is important to note that the key variable remains effectiveness in terms of social change. Some models for delivering legal services may prove to be more effective than others and should be selectively encouraged. For these purposes, more research is required.<sup>60</sup> But even traditional models, though ineffective in the past as instruments of social change, offer new possibilities if exploited creatively and with sufficient resources.

### B. Latin America

“There are three general types of legal aid facilities in Latin American countries: the assigned counsel system, national or state legal aid programs, and law school legal aid clinics. Virtually all Latin American countries have some form of the assigned counsel system.”<sup>61</sup> The legacy of Spanish and Portuguese legal doctrines in Latin America included a rudimentary system of legal aid. This system, which is still reflected in the constitutions and statutes of most countries, provides for court appointment of counsel in criminal, and sometimes civil, court proceedings. Traditionally, this court appointment has not been supported by budgetary allocations to pay lawyers for this representation or to defray other costs of litigation. Rather, the courts have maintained a list of attorneys who have been assigned on a rotating basis to cases involving indigents. The lawyers have theoretically been under a professional duty to accept these cases without remuneration.

This system is still the primary source of legal aid in several countries.<sup>62</sup> Unfortunately, it has been shown that “professional duty,” without more is an inadequate base for providing effective legal aid to the poor. This is especially true in countries where, as pointed out above, most lawyers come from privileged families and do not develop a sense of professional duty on behalf of the underprivileged. Indeed, in the countries surveyed by the Panel, it was found that neither the lawyers nor their potential clients, the poor,

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60. See generally Trubek, *Unequal Protection*, *supra* note 17.

61. Knight, *supra* note 56, at 102-03.

62. M. CAPPELLETTI, *TOWARD EQUAL JUSTICE: A COMPARATIVE STUDY OF LEGAL AID IN MODERN SOCIETIES* 648 (1975).

are aware of the constitutional and legal "rights" to legal aid that exist.

Voluntary, or *pro bono publico* services of lawyers need not be inconsequential; nor does the Panel conclude that such services should be ignored. Rather, voluntary services of lawyers can, if properly encouraged and promoted (by law schools, bar associations, and governments), contribute to a diversified program of legal services to the poor.

In a number of countries in the region, the statutory "guarantee" of counsel in civil or criminal cases has been supplemented by modest public budgetary allocations to pay lawyers for their services. One scheme pays lawyers on a fee-for-case basis, with the lawyer earning the bulk of his salary from private clients. A second delivery system pays lawyers on a full-time basis as staff attorneys. For example, public defender offices (*Defensores de Oficio*) work full time in offices attached to the criminal courts in Mexico, Argentina, Brazil, Peru and Paraguay.<sup>63</sup> In Brazil and Chile, legal aid offices also provide free assistance in civil matters.<sup>64</sup>

Characteristically, these programs are understaffed and lack sufficient funds to pay the salaries required to hire and retain experienced counsel. As a result, the number of persons represented through these programs is relatively small, and the quality of representation poor. A further problem of government funded programs is that an important role which may be played by a legal aid group—challenging government decisions that may adversely affect the poor—may often be vitiated.

Trubek has observed that most of these publicly funded legal services programs tend to be very traditional (non-change oriented).<sup>65</sup> He quotes Lynch's description of a "typical legal aid program":

The normal pattern . . . would be to hire young attorneys willing to work for a lower salary while they obtain experience and pre-

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63. Knight, *supra* note 56, at 79.

64. *See id.* at 82-89. The *Servicios de Asistencia Judicial* in Chile provides an interesting model. The Chilean Bar Association supervises legal services clinics with funds coming from the government. Six months of service with *Servicios* are required before a lawyer can be admitted to practice. *See generally* Bates, *Legal Services to the Poor in Chile*, in COMMITTEE ON LEGAL SERVICES TO THE POOR IN DEVELOPING COUNTRIES, *LEGAL AID AND WORLD POVERTY* 132, 137-43 (1974).

65. Trubek, *Unequal Protection*, *supra* note 17, at 259.

pare themselves for a legal career serving institutional clients or the middle and upper classes. They would have no long-run identification with the needs of their clients and their perspective would be that of a patron who knows what is best for his clients . . . they will tend to favor individualized problems which do not challenge or attempt to change the existing allocation of legal rights.<sup>66</sup>

Trubek further notes that similar patterns can be found in Brazil.

For example, the state of Rio de Janeiro has a relatively large state-supported legal services program employing 160 attorneys most of whom work on a part-time basis. The program takes only those individual clients who appear at the civil and criminal courts. It has no community-based intake systems, and makes no effort to seek out test cases.

The program has an immense case load. According to an official report, the program has contact with 45,000 persons *per month*, and completed 90,000 cases in 1976. One observer calculated that this means that attorneys average ten minutes per completed case!<sup>67</sup>

Another authority concludes that the following evaluation of the nationally funded Chilean Bar Legal Services Program is characteristic of most legal services programs in Latin America<sup>68</sup>:

Insufficient economic resources; internal disorganization and lack of creativity and dynamism; non-existence of a real teaching program . . . ., absence of studies and pieces of research that can serve as the basis for internal restructuring; substantive changes in the laws that most affect the poor and modifications in jurisprudential criteria; lack of direct controls over the work of lawyers and students.<sup>69</sup>

The third type of "typical" legal aid program in Latin America is that provided by law schools in clinical legal education programs.

For the past twenty years, Latin America law schools have been actively interested in expanding their practical training courses by setting up legal aid clinics operated by law students under faculty

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66. Lynch, *Lawyers in Colombia: Perspectives on the Organization and Allocation of Legal Services*, 13 TEX. INT'L L.J. 199, 239 (1978).

67. Trubek, *supra* note 17, at 260.

68. Valdez, *supra* note 21, at 17.

69. Bates, *supra* note 64, at 142.

supervision. [However,] [l]aw school legal aid clinics . . . are geared primarily toward teaching law students traditional lawyering skills and secondarily (and sometimes at the expense of) providing service for the poor.<sup>70</sup>

Despite the historical ineffectiveness of these three "typical" legal services facilities in Latin America as instruments of social change, new approaches are emerging which promise to reverse this pattern. One of the most exciting experiments underway is the clinical legal education program at the Catholic University of Chile, directed by ILSA's Technical Director, Professor Luis Bates Hidalgo.<sup>71</sup>

One of its objectives is to educate the community on its legal rights and obligations by producing a publication providing information to the layman on his legal rights and a television program which discusses selected legal problems of the poor. This type of effort addresses a common problem in developing countries, the ignorance of the poor about their legal rights and obligations and the means available to them for resolving disputes and redressing grievances. This ignorance must be removed if the community is to make appropriate demands on the legal system. Lawyers, courts and bureaucracies do not, as a rule, seek cases or grievances to redress. Rather, those cases and grievances must be presented to them for consideration and resolution. A necessary ingredient for submitting those cases to the appropriate forum is a basic knowledge of the legal system on the part of the community.

Another necessary ingredient in this process is finding lawyers willing to give effective representation before that forum. The Catholic University . . . clinic is operated by the law faculty of the Catholic University and enjoys the participation of some 50 law students. The clinic handles cases ranging from divorces to labor negotiations for a union of domestic helpers. The students, supervised by faculty, make frequent visits to the *campamentos* of Santiago where they interview and advise clients, in addition to seeing clients at the clinic offices on the University's campus.

The Catholic University's legal assistance clinic has recognized that legal problems of the poor are so broad that it can address

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70. Knight, *supra* note 56, at 103.

71. Bates has taken a leadership role in promoting the establishment of this type clinic in Latin America. In March 1973, he hosted a conference on legal aid, which was attended by law school deans and professors of law from most of the Latin American countries. The favorable response to the conference indicates a widespread interest in clinical education and legal aid in Latin America. Valdez, *supra* note 21, at 18.

them more adequately by representing citizens with similar legal problems on a class basis. Thus, the clinic has signed agreements with "*poblaciones*," camps, labor unions and public jail for providing free legal counseling and representation for all members of the respective organization and their families. It has found that "it is not sufficient to simply offer greatly needed assistance . . . but that without a program designed to motivate the poor to demand, as a right, the needed services . . . they simply will not take advantage of the most desperately needed assistance." Past disappointment with the legal system or lawyers and outright distrust of both may be part of the reason for this situation (citation omitted).<sup>72</sup>

Another innovative legal services program is the Centro de Investigaciones Pro Defensa de Intereses Publicos PROPÚBLICOS (Center for studies and action in defense of the public interest), directed by ILSA's Latin American Regional Director, Dr. Fernando Umaña Pavolini.<sup>73</sup> PROPÚBLICOS engages in several activities similar to public interest law firms (collective advocacy, or group representation programs) in the United States over the past decade. A principal activity is performing legal research on issues affecting the disadvantaged in Colombia. An attempt is made to select cases for research that have a potential for administrative and judicial reform, and PROPÚBLICOS then litigates these cases to the appropriate agency or tribunal. PROPÚBLICOS also represents Indians in the Cauca region of southern Colombia under a contract with the Regional Indian Council of the Cauca (CRIC), which participates in the selection of cases and supervision of legal services.

### C. Caribbean<sup>74</sup>

The post-war independence movement of the Commonwealth Caribbean has witnessed the growth of the notion that every litigant should be represented in court. This concept represents a radical departure from traditional legal practice and has marked a major step toward providing legal services to the poor as a matter of political right rather than on the basis of the capacity to pay a private fee.<sup>75</sup> But historically the roots of legal aid, apart from some statutory provisions relating to certain classes of criminal defendant and an ailing

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72. *Id.* at 17-18.

73. For a general description of PROPÚBLICOS, see Inzunza, *supra* note 56, at 28-31.

74. For a recently published discussion of legal aid developments in the Caribbean, see McCalla, *Legal Aid Developments in the Caribbean*, 12 LAW. AM. 381 (1980).

tradition of court-appointed counsel in certain other types of cases, have been informal, supplied by the social or political organizations to which one belonged. This is a pattern which has persisted and, as Ronald Thwaites, a leader in the Jamaican legal aid movement and member of the Role of Law Panel, has pointed out, one that has not been without its advantages, "as it tended to organize legal assistance within a community or peer group context which has tended to overcome a high measure of distrust and skepticism evident among the poor in the Caribbean in relation to Government-sponsored devices."<sup>76</sup> Yet, in other areas, he continues,

extra-legal community norms and methods of problem-solving have persisted and developed. This is particularly the case in the areas of domestic and property law where not only is legal assistance not easily forthcoming but where the laws themselves are most manifestly out of line with traditional patterns of social behavior.<sup>77</sup>

The result, in effect, has been two legal systems.

In the past decade bold steps have been taken to bridge this gap. First, autonomous legal aid clinics have developed in the Caribbean resulting in increased access of the poor to the formal legal system. In Jamaica, probably the most developed of the Caribbean countries in terms of the quantity and quality of legal services provided, the Kingston Legal Aid Clinic was established in 1972. Since then, another clinic in Montego Bay has been created, as well as a National Legal Aid Council.<sup>78</sup> The government and Jamaica Bar Association have contributed some financial support to the legal aid clinics.<sup>79</sup>

In Guyana, a Guyana Legal Aid Center has been established with technical assistance provided by the Kingston Legal Aid Clinic. The Guyana Center receives no government funds; however, it has been very successful in involving the private bar in its program and raising the concern of the Guyanese legal profession for the poor. Miles Fitzpatrick, ILSA's Caribbean Regional Director, helped to found the Center and is serving temporarily as its manager.

Aside from legal aid programs, there also have been advances in law reform activities in the Caribbean. "In both Jamaica, and in

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75. See D. Dodd and M. Parris, Final Evaluation Report on the Guyana Legal Aid Centre (University of Guyana, June 1978) at 35-37.

76. R. C. Thwaites, Some Notes on Legal Aid in the Commonwealth Caribbean, (unpublished).

77. *Id.*

78. See generally Valdez, *supra* note 21, at 19.

79. *Id.*

Trinidad and Tobago, the governments have established an office for law reform to study the legal systems and make recommendations for amending existing legislation and enacting new legislation where needed.”<sup>80</sup>

#### D. Summary

While legal services programs have existed for a long time in both Latin America and the Caribbean, their orientation has been mainly traditional, their resources—both financial and human—inadequate, and their effectiveness as vehicles for social change extremely limited. In the recent past, more change-oriented programs have emerged that promise to contribute far more to the role of law in social change. However, lack of funds, information, administrative experience and cooperation from legal and political institutions have slowed progress. To better support the work of these new and innovative programs, as well as to improve the delivery of legal services through more “typical” models, ILSA has been established.

### VII. ILSA’S OBJECTIVES

ILSA’s overall objective is to support local organizations in Latin America and the Caribbean which provide legal services to the poor and other under-represented persons and groups. Towards this end, ILSA seeks the following:

- (1) to increase financial assistance to legal services organizations in Latin America and the Caribbean;
- (2) to foster greater communication, interaction and support among these organizations;
- (3) to stimulate research aimed at improving the efficiency and effectiveness of legal services for the poor and under-represented;
- (4) to obtain greater support from Latin America and Caribbean governments and bar associations for domestic initiatives to expand delivery of legal services in order to establish long-lasting programs that are consistent with national laws and development goals; and
- (5) to enhance the process of economic and social de-

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80. Interview with Dr. E. Watkins, Director of the Kingston Law Reform Office, Feb. 8, 1974, noted in *id.*



velopment through effective participation of the poor.

### VIII. ILSA'S ACTIVITIES

#### A. Overview

In furtherance of its objectives, ILSA performs the following services:

- (1) supports the fundraising efforts of Latin American and Caribbean legal services organizations by providing direct financial assistance helping them to obtain funds from other sources by informing them of new financial opportunities, assisting them in formulating funding requests, and bolstering their capability to meet the recordkeeping and reporting requirements of money granting institutions;
- (2) sponsors training and other technical assistance by Latin American and Caribbean lawyers experienced in promoting legal services;
- (3) holds periodic conferences among Latin American and Caribbean lawyers to focus on common problems related to improving legal services for the poor and under-represented;
- (4) serves as a reference center for groups seeking written material about legal services;
- (5) writes and distributes a newsletter on recent developments and publications dealing with legal services;
- (6) conducts interdisciplinary research on the relationship between legal services and law, legal institutions and development; and
- (7) works with Latin American and Caribbean governments and bar associations, as well as inter-American governmental and nongovernmental organizations, to promote the rule of law in the Western Hemisphere by designing mechanisms that guarantee the effective protection of legal rights for the poor and other under-represented groups and individuals.

### B. *Financial Assistance*

On the basis of ILSA's first inter-American legal services conference<sup>81</sup> it was decided that ILSA's efforts to create new legal services programs would be facilitated if it could offer one-time only "seed money grants" aimed at getting new projects underway and attracting additional funding from other sources with greater financial resources. The thesis embodied by the seed money concept is as follows. A number of legal services projects face technical problems and un-receptive attitudes that make fundraising difficult and prevent the establishment of even a small pilot project. The pilot project might well allay suspicions and provide the basis for continued and larger financing of a permanent and useful project. Seed money thus serves two functions: (1) providing a modest financial base to get projects started; and (2) serving as a vehicle for technical assistance, since ILSA would evaluate and otherwise advise project directors, upon request, on various aspects of creating and sustaining an effective, change-oriented legal services program.

On this thesis, ILSA succeeded in procuring a grant of \$50,000 that could be disbursed as seed money. These funds have now been authorized for five projects as described below.

#### Peru: ASOCIACION DE DEFENSA Y CAPACITACION LEGAL (ADEC)

Under a grant agreement signed in April, 1980, ILSA has disbursed funds to ADEC for a group representation project. ADEC will provide legal assistance to organized workers faced with penal, labor, civil or administrative problems. The Inter-American Foundation also is funding this project on a one-year experimental basis.

#### Colombia: CRIC-PROPÚBLICOS

The PROPÚBLICOS public interest law program has been described above. The new project will enable PROPÚBLICOS to hire a second lawyer to handle legal problems relating to land for Indians in the Cauca region. Representation will be provided through the Comité Regional Indígena del Cauca (CRIC), the only organization in Colombia protecting the interests of Indians that is run by the Indians. Currently PROPÚBLICOS must limit its legal representation to defending Indians in actions being brought by landowners in an effort to encroach on the Indians' communal land. A second lawyer will enable

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81. See discussion *infra* at p. 569.

PROPÚBLICOS to help Indians get title to land and otherwise use the law in a way to promote rural development.

#### Barbados: NATIONAL LEGAL AID AUTHORITY

The project aims to create a National Legal Aid Authority to operate as a quasi-governmental, independent body with the cooperation and participation of the legal profession of Barbados. After an initial three-year period during which outside financial resources are required, the Authority will be financed with funds provided by the government of Barbados and the legal profession, as well as revenue obtained from the Authority's operations. The Authority will provide legal aid on criminal and civil matters. Pending establishment of the Authority, ILSA will provide a seed money grant to pay the salary of a Barbadian lawyer in an interim legal aid program. The government of Barbados will provide or fund office space, a secretary and a clerk, and has recently agreed to commit counterpart funds to this venture. The ILSA expects to disburse funds by December, 1980.

#### Belize: LEGAL AID SOCIETY

This project will institute a legal aid society in Belize, which currently has no legal aid program. The project will create a Legal Aid Office, staffed by one full-time director and one secretary-bookkeeper. The Office will be supervised by a Board of Directors comprised primarily of members of the Bar Association, with representatives from the Church, Government and perhaps a trade union. Legal aid will be provided by members of the Bar on a *pro bono* basis. Beneficiaries will be individuals in the law and subsistence income groups, estimated to be about 75,000 persons. The program will involve legal aid and representation on both criminal and civil matters. The first two years of operation will be financed by external sources. Subsequent funding is expected from the government, businesses, and religious and charitable organizations.

#### Jamaica: RURAL LEGAL ASSISTANCE

This project involves the creation of a mobile rural legal aid clinic to serve the parishes of Clarendon and Manchester in Jamaica. A lawyer would ride circuit with the Magistrate. He would operate out of the courts or from offices in his van or car, with the assistance of a clerk/secretary. Filing and Chamber work would be handled by the Kingston Legal Aid Clinic rather than setting up a separate office. If this program is successful, a similar one could be established in

other parishes under the management of the Montego Bay Legal Aid Clinic.

Having authorized grants for the above mentioned projects, ILSA currently lacks funds for direct financial assistance. It continues to serve as an intermediary and catalyst, however, advocating proposals from Latin American and Caribbean organizations before international funding agencies. Two such proposals are for a community development organization in Guatemala and a rural development organization in Chile. The group in Guatemala (Movimiento Nacional de Pobladores, or MONAP) works mainly to secure service and other rights for citizens living in the squatter communities surrounding Guatemala City. MONAP seeks to develop a legal services component to its community development program. The Chilean organization INPROA (Instituto de Promoción Agraria) is affiliated with the Catholic Church and provides technical assistance and social services to campesinos. They now seek to develop a legal assistance program for campesinos as well as a group representation for campesino organizations.

Through its financial assistance activity, and consistent with its goal of using the law as an instrument to improve the well-being of the poor and other disadvantaged sectors of society, ILSA seeks to develop innovative legal services programs that achieve more than a "band-aid" solution to social problems. ILSA's Board thus gives preferred consideration to projects which have a "collective advocacy" component. In this context, collective advocacy involves the provision of legal advice and representation to or through participatory organizations which represent the interests of the poor and disadvantaged—including Indian organizations, peasant leagues and federations, labor unions, women's movements, cooperatives, community organizations and housing associations—to advance their claims through the legal system. The "legal system" embraces administrative agencies and legislative bodies as well as courts. Thus the "collective advocacy" approach embraces elements of all three types of legal services described previously: legal aid, group representation and law reform.

### *C. Technical Assistance*

Both Regional Directors and the Technical Director of ILSA manage ILSA's technical assistance activities, which are essentially three: training, evaluation, and information services. While North American legal services experts occasionally participate and many

written materials come from the United States, Canada, and Europe, the thrust of the technical assistance program is to have experts from Latin America and the Caribbean assist other programs within their respective regions.

### 1.) Training

In May 1980, ILSA's Technical Director, Professor Luis Bates, assisted by a colleague from the *Departamento Práctica Conjunta y Asistencia Legal (DEPAL)* program, Benito Mauriz, provided advice to a regional legal services seminar organized by the Overseas Education Fund for women's groups in Honduras, Nicaragua and Costa Rica. The topics included were framework for analyzing the legal system in relation to the legal condition of women (Mauriz), elements of a legal reform (Mauriz), models of legal services (Bates), and elements and forms of legal education, training and extension through the media (Mauriz).

With the creation of a Belize Legal Aid Society and Barbados National Legal Aid Authority, it is expected that ILSA's Caribbean Regional Director will travel to both countries during fall 1980. In addition, he will facilitate training for young legal aid and public interest lawyers at the Kingston Legal Aid Clinic in Jamaica.

### 2.) Evaluation

The principal objectives of this activity are: (1) to conduct feasibility studies for proposed legal services programs in order to assess program design and resources and offer advice with a view towards developing a proposal document for presentation to international funding agencies; and (2) to evaluate ongoing programs in order to assist them to become more change-oriented.

In July 1979, Professor Bates and Dr. Umaña visited representatives of ADEC to assess the prospects for a group representation program in Peru. Subsequently, Professor Bates evaluated two other programs in Colombia and has been requested to participate in the design of a clinical legal education program in Paraguay. Under Professor Bates' supervision, a Chilean lawyer and social scientist, Dr. Francisco Barriga, is developing a project evaluation model that will serve as the basis for subsequent ILSA sponsored evaluations of ongoing legal services projects.

### 3.) Information services

ILSA has created a Documentation Center in Santiago, Chile, managed by the Technical Director, Professor Bates. Over 750 documents on legal services have been catalogued, and a list of categories used may be obtained from the Documentation Center, along with bibliographies for specific categories. Copies of documents are available upon request at cost of photocopying.

The Technical Director also edits a periodic newsletter, the first issue of which will be distributed in January 1981. The newsletter reports on recent organizational developments of ILSA, news about legal services programs in Latin America and the Caribbean, and new publications relevant to legal services for the poor.

### D. *Periodic Conferences*

In furtherance of its objectives to provide technical assistance and to foster greater communication, interaction, and support among Latin American and Caribbean legal services organizations, ILSA holds periodic conferences among Latin American and Caribbean lawyers engaged in the delivery of legal services to the poor.

In May 1979, ILSA convened a Legal Services Conference in Santo Domingo, Dominican Republic.<sup>82</sup> The Conference attracted thirty-seven legal services experts from fourteen countries. The Conference confirmed the need for an organization to coordinate efforts to promote legal services in the Western Hemisphere and resulted in a decision to devote the primary share of ILSA's resources to assisting client-based legal services programs. Research and other nondelivery activities would be conducted in support of programs actually delivering legal services.

In July 1980, ILSA's Caribbean Regional Director called a meeting of the principal legal services leaders in the Caribbean to design a strategy and work plan to promote legal services on a regional basis. The Inter-American Foundation provided funds for the meeting and the University of Miami School of Law provided facilities. The planning session had two purposes: first, to assess the progress and setbacks of the Caribbean legal services movement on the basis of the experience of its leading proponents; and second, to reach a consensus on the movement's goals and priorities and the role a regional

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82. Proceedings of the conference are on file at the Washington headquarters and the Documentation Center.

organization like ILSA should play in their implementation. A similar meeting for the Latin American region is planned for next year.

#### *E. Interdisciplinary Research*

ILSA increasingly has come to recognize the importance of research. Presently, with few exceptions such as the eighteen-month evaluation of the Guyana Legal Services Centre, there is no existing body of scientific knowledge and experience to guide investments of resources in legal services programs in Latin America. There is first a need to synthesize existing knowledge, outline issues, and suggest lines for future research. Possible research themes include:

- (1.) Legal services and basic needs;
- (2.) Legal services, community development and the design of community law offices;
- (3.) Alternative models of delivering legal services; and
- (4.) Legal services and the rural poor.

Although ILSA presently lacks financial resources to directly commission studies along the above lines, it is pushing in other ways to attract interest and support for legal services research. In June 1980, a meeting was held at the University of Wisconsin Law School—organized by Professor David M. Trubek and Joseph Thome, in conjunction with the international joint meeting of the Law and Society Association and the Research Committee on Sociology of Law of the International Sociological Association—to explore with a few Latin American legal services scholars and legal sociologists interested in legal services the potential contribution research could make to delivery programs. The Latin American participants came from Mexico, Venezuela, Peru and Bolivia. A decision was made to organize a conference for research and directors of legal services delivery programs for spring 1981. ILSA's Research Director, Professor Dodd, will coordinate this effort.

#### *F. Involvement with bar associations and governments*

ILSA's Regional Directors, Technical Director, and President have sought, where appropriate, to meet with leaders of local bar associations as well as ministers of justice and other government officials responsible for administration of justice. Relations with bar associations have been most fruitful in the Commonwealth Caribbean, where the bar associations of Belize and Barbados are helping to organize new legal services programs. ILSA also has sought to develop

closer relations with the Organization of Commonwealth Caribbean Bar Associations (OCCBA).

ILSA is working to organize a conference for ministers of justice to discuss legal services activities in their countries; ILSA's Technical Director is heading this project. It is hoped that the Organization of American States will participate in the effort.

### *G. Membership*

ILSA is moving to become a membership organization. Membership will be limited to organizations delivering legal services in Latin America and the Caribbean, and ILSA will function essentially as a service organization for its members. In this context, ILSA continues its effort to identify existing legal services programs and solicit their participation in its activities.

### *H. Fundraising*

This activity is vital to the continued existence of ILSA and its affiliate organizations. Even more than in the United States, funds in Latin America and the Caribbean for legal services have been extremely limited. ILSA's ultimate objective is to assure sources of future support from within the regions, especially from governments, bar associations, and the business community. Current efforts focus on procuring external funds from government development agencies and private foundations in the OECD countries, as well as international development assistance institutions.<sup>83</sup>

## IX. CONCLUSION

The law can and should be used as an instrument to advance social change. Generally, speaking, the law has not functioned this way for the poor in Latin America and the Caribbean. Improved legal services—legal aid, group representation and law reform—are needed to secure effective access to justice for the poor and thereby improve their well-being. Legal services contribute to social change in three ways: promoting equality before the law; fostering political and socioeconomic development, especially helping to implement programs designed to meet “basic human needs,” and protecting human rights. There are limitations, conceptual and practical, and the

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83. ILSA also solicits private contributions from attorneys and bar associations in the United States who then become “Friends” of the organization and eligible to receive the ILSA Newsletter.



typical legal services program in Latin America and the Caribbean has been "traditional" and functioned at best as a "band-aid" for social problems. In recent years more change-oriented programs have developed.

ILSA was created in December 1978 with the objective of supporting legal services organizations in Latin America and the Caribbean and thereby securing effective access to justice for the poor. This support involves financial and technical assistance aimed at promoting new, change-oriented legal services programs and improving existing programs. ILSA also serves as a mechanism for the exchange of information and provision of mutual support—technical, moral and political—among those providing legal services in the Americas.

Directed by an inter-American Board and created under the auspices of the Inter-American Juridical Committee and on the basis of a study conducted by Latin American and Caribbean legal services experts, ILSA represents a truly inter-American initiative; sensitive to the special socio-economic and political realities of Latin America and the Caribbean and regional concerns. ILSA's first eighteen months provide an encouraging record in terms of project development and improved contacts among Latin American and Caribbean legal services organizations. ILSA continues to build on this momentum. It is hoped that lawyers in the Americas, individually and through their bar associations, will lend their support to this endeavor.