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SEADAG Project No. 70101

**The Capacity of the Legal
System to Facilitate the
Urban Development Process:
Korea and the Philippines.**

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I. INTRODUCTION

This paper is a summary of SEADAG Project No. 70101, which supported a series of case studies in Korea and the Philippines of the capacity of the legal system to facilitate the urban development process in developing countries. In this summary,

"urban development process"

means the process through which land acquisition and development projects are initiated, planned, and completed as a part of the urban transformation of a developing country. Land acquisition projects were emphasized because all countries, in order to carry out public works and similar programs, need to have some method of acquiring and developing land. Urban development planning is illustrated by a study of the regional planning process in the Philippines.

The term

"legal system"

includes not only the relevant substantive law but the necessary legal institutions, such as the courts and administrative agencies. By

"capacity to facilitate"

is meant the ability of the legal system to achieve the objectives contemplated by the use of legal power in the urban development process. Two introductory papers by Prof. Mandelker (1) and Mr. Magavern provide a conceptual framework for the studies that were carried out in the project. Professor Mandelker's paper begins with

the assumption that a legal system which facilitates is also interventionist. He states that the legal system

"seeks to intervene in and give new direction to market forces in urban development which are perceived as operating imperfectly, producing results which make neither an efficient nor an optimal use of resources."

Several elements of the legal system determine the extent to which that system can achieve this objective. These are:


1. Span of Control. The extent to which the legal system provides effective control over the urban development process.
2. Public-Private Power Split. The degree of division of power between these two components of the system.
3. Constraints on Power. The legal constraints which are imposed by the legal system on the powers exercised by the public sector.
4. Distribution of Power Among Units. The types of powers which the legal system confers on the many agencies in the urban development process.

Magavern (2) argues that while the fundamental problems of urban development are similar in developing nations, the effectiveness of programs directed to these problems depends as much upon extra-legal conditions that have arisen from a country's historical, economic and cultural background as upon its political and legal system. Magavern illustrates his argument by contrasting legal, political, cultural and

economic conditions in the Philippines and Korea.

In the first part of his discussion Magavern describes the general background of the legal system in both countries. Both provide for a separation of powers among legislative, executive and judicial branches, both recognize local government and a bill of rights. But the way in which these general laws are implemented in planning programs is different in both countries. In Korea, substantially unrestricted planning powers are vested in administrative officials, and a minimum of protection has been provided for owners of land. In the Philippines, planning powers vested in the National Planning Commission, have been limited by the doctrine that no legislative power can be delegated to an administrative agency without sufficient standards, and important implementary regulations have been held unconstitutional.

In his discussion about local government in the two countries Magavern states that in comparison with the Philippines the Korean constitution provides a firmer foundation for local government (3) even though both constitutions leave it to national legislation to determine both the form and the content of local government. In practice, local governments in both countries are dominated by the national government. Yet there are significant differences in the relationship between local and national governments in both countries. The autonomy of Philippines local government has been strengthened by the limitation of Presidential power to interfere in local affairs. Local government here has also gained importance by bringing people into active



participation and, consequently, has linked local to national politics. But the effectiveness of this seemingly favorable situation has been lessened by the fact that local government has often had to comply with personal favors demanded by the national administration and, even more important, by the absence of a strong party system which could diminish the importance of personal politics. Local government in Korea, even though it has been given a firmer constitutional foundation, has not gained strength in autonomy and popular participation. Because of its weakness there occurs less friction with the presidential power which, when personal relationships between the president and the representative of the local government are favorable, allows for more effective planning. The negative side of this situation is that local government does not provide a strong check against arbitrary power as the stronger local government in the Philippines does.


Differences between both countries are greatest with respect to the protection accorded to private property against government action. Both constitutions leave it to the courts to elaborate specific principles about property owner protection. But even though the Korean constitution appears on its face to contain more explicit guarantees to private owners, these guarantees have not been implemented in practice. The vague and general clauses of the Philippine constitution have, on the other hand, been elaborated in practice into specific doctrines of property protection. Magavern's opinion is that the Philippine courts might have been even too zealous in their protection of private property in the past and not enough interested in the

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public welfare. This attitude has been changing.

In the land acquisition process, we find an even more striking contrast between the laws of these countries. The Philippine courts have at least been willing to undertake a definition of the proper extent of the land acquisition power, but no such development has occurred in Korea. Magavern explains the differences in the working of the legal system in the two countries in terms of similarities and differences in critical extra-legal factors. Both countries are similar in the importance given to education, in their family-centered cultural systems de-emphasizing the importance of business relationships, and in their older cultural traditions which emphasize conciliation over adjudication. Both countries are formal unitary states. But in Korea effective legal power is centrally concentrated with no local check, a situation which is disadvantageous to the ordinary citizen. In the Philippines there is greater dispersal of power, leading to a more definite tendency to rely on the law in case of disputes.

Magavern next discusses the differences between both countries taking into account their economic development, the position of the land-owning class, and the historic and cultural background. For example, property in the Philippines has long been in private hands, and has been fragmented along American lines. Property ownership in Korea has been more restricted. These differences may explain the greater attention paid by Philippine courts to the rights of landowners. At the same time, more rapid industrialization in Korea has not been accompanied by a shift to Western legal styles. The non-Western



Confucian legal tradition has remained dominant.

The balance of this Report will analyze some of the case studies which were prepared for this project and which illustrate the issues discussed by Professor Mandelker and Mr. Magavern. In this summary, I will examine these case studies from two different perspectives. First, I will consider the extent to which urban development projects have been accommodated by the legal system. For example, one of the projects in the study was the building of a new high school in a Filipino municipality outside Manila. While even the building of a project as straightforward as a high school placed stresses on the Philippine legal system, the high school was a comparatively simple enterprise which required only a minimum use of existing legal institutions. In contrast, the Manila North Division Road, another public works project, required the execution of a public enterprise on a scale never before attempted in the Philippines, and eventually led to a breakdown in the legal framework which was devised for the program.

Second, I shall consider the impact on existing social, political and economic institutions of different legal techniques. Some legal techniques require direct public intervention. For example, in the Kwangju new town project (4) in Korea the government played the major role in the development of a satellite city. This project in turn had a direct impact on settlement and economic development patterns in the Seoul region. Sloboda's paper (5) suggests a different and indirect method of intervention in the Korean housing market and is intended to

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achieve comparable results. Young's (6) study in the Philippines is by contrast an analysis of political influence on the success and failure of regional planning programs.

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II. THE EXTENT TO WHICH URBAN DEVELOPMENT PROJECTS HAVE BEEN ACCOMMODATED
BY THE LEGAL SYSTEM

A. San Juan High School Case Study (8)

San Juan del Monte is a municipality of Rizal, a province of Luzon, and is enclosed on three sides by the Manila metropolitan area. The local government is headed by a Mayor, elected for four years, who is the local executive and also the presiding officer of the municipal council. There is also a municipal secretary and attorney who, respectively, assist and act as local counsel on administrative matters. An unusual feature of the municipality is the San Juan Development Council, which is a citizens planning and advisory council to the municipal government. Although 40 per cent of the population in San Juan is of school age, there was no public high school in the municipality when Joseph Ejercito Estrado ran for the office of Mayor in 1967. One of his main platforms was the establishment of a public high school, and after his election he proceeded to implement this promise. His most immediate problem was to find a site for the school in a municipality which was suffering from a shortage of land for development. Land acquisition is largely a matter of negotiation in the Philippines. Although the doctrine of eminent domain exists (7) it is a comparatively diminished power, and is exercisable only by the provincial board upon the recommendation of the municipal council.

Therefore, the Mayor began the school project by suggesting the use of land owned by the National Waterworks and Sewerage Authority (NAWASA). NAWASA agreed, and a lease was negotiated. We should note

that the Mayor had personal contacts on the NAWASA Board which were helpful to him in securing this lease. Once the lease was signed the San Juan Municipal Development Council approved the project, cost estimates were obtained, and final authorisation by the municipal council was executed. However, squatters living on the site then began to protest its use for school purposes, and secured a court order halting construction of the school.

While a dispute between the squatters and the municipality over the appropriate use of the NAWASA site led to this litigation, the squatters did not attempt to restrain construction of the school on this basis. Land titles are confused in the Philippines as in many developing countries, and doubts about title to the NAWASA land were utilized as a legal basis for stopping the school project. Eventually, and in part through the use of political influence, the Mayor and his allies persisted and the school was built. (8)

B. Manila North Division Road Case Study

Some projects examined in this Report revealed a situation in which existing legal institutions performed inadequately. One such project was the Manila North Division Road (MNDR) (9). This road, unlike the San Juan High School, was a national priority project. The study indicates that the highway was initiated because the two main feeder highways to Manila from the provinces of Luzon were inadequate to meet traffic volumes, but at first the national government had no effective legal machinery to undertake this project. A joint road widening proposal of the Bureau of Public Works, the National

Planning Commission and the Department of National Defense gave way before a national act which required the creation of an integrated highway system. A newly established Bureau of Public Highways (BPH) was given the authority to plan the national highway system, which included the Manila road system, but progress with road planning was slow.

Two years after planning for the highway project began the issue became political and the Congress prompted a feasibility study. This study was published a year later and totally negated any expansion of the existing road. As a result of this report a solution to the problem was sought elsewhere, and a suggestion was made that an expressway be built alongside the Manila Railroad Company strips parallel to one of the existing highways. However, this approach was immediately rejected, mainly on the ground that there was no law governing the development of an expressway in the country. The Limited Access Highway 1957 was then enacted, and it provided the necessary legal authority. Under this Act the Department of Public Works and Communications was empowered to recommend acquisition of public property and property rights for limited access highway facilities, and

"to plan, designate, establish, regulate, locate, alter, improve, maintain and provide limited access facilities whenever it is of the opinion that traffic conditions, present or future would justify such facilities." (10)

Two alternative expressway plans were considered next, and the

MNDR plan was finally approved in 1960, seven years after the initial decision to build a highway in this area.

However, even though legal machinery had been created for the project this machinery did not function smoothly. The acquisition of right-of-way especially proved to be a stumbling block, and property owners were able to impose substantial delays by refusing to sell. Only thirteen landowners agreed to sell initially, and negotiations continued for some time. The remaining landowners were then offered a higher price, which they refused, but no decision was at first made to proceed with compulsory acquisition. However, by this time strong political pressure had built up favoring immediate acquisition of the right-of-way, and to expedite matters expropriation actions were then started, much to the surprise of the landowners. Moreover, in 1964 construction of the expressway was started on a section of land which had been acquired by negotiation. However, in 1965 the incumbent President was defeated in an election and development came to a stop. The new President favored the expressway, however, and to advance the project a court decision was sought and obtained which awarded the government the right-of-way. Compensation was deferred and was to be determined in proceedings before a newly created commissioner.

Immediately after that decision the construction of the highway resumed. However, financial planning was found to be inadequate and the project began to run out of money. The President was committed to this expressway politically, however, and so he ordered completion of one side of the highway and set about finding a method for obtaining

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funds to continue the construction of the other half. In view of the apparent inability of the public sector to carry out this project, steps were then taken to enable the highway to be completed by a private company. A national statute was utilized for this process. This act enabled the government to contract with private companies for the construction of a highway as well as other public facilities. These private companies would then be permitted to charge a reasonable toll for the use of the highway. The highway was then advertised for bidding, but only one bid was made, by an amalgamation of a number of large Philippine construction companies. Construction of the highway began when agreement had been reached on price between these companies and the government.

However, although the project was finally completed other problems still remained. By mid-1967 only two compensation cases had been heard by the relevant authority. The price offered for the land was, and is, the cause of continuing litigation, for the matter has not yet been settled but is being fought through the Philippine courts.

These two Philippine studies suggest a personal system of administration in which conventional legal institutions cannot cope fully with a major development project, such as a major highway. The difficulty is confirmed by a study like the San Juan high school case study, in which even the success of a comparatively routine project for the construction of a high school required the personal political commitment of the Mayor, and the willingness of a second major public agency to make the necessary land available. Even then, protracted

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litigation was required to establish the municipality's right to use the land it had leased for the high school building.

III. THE IMPACT OF DIFFERENT LEGAL TECHNIQUES ON SOCIAL, POLITICAL, AND ECONOMIC INSTITUTIONS

A. The Contribution of a Site Value Tax to the Korean Housing Problem

Rural migration to urban centers in Korea has created a housing problem of major dimensions in Seoul and in other cities. Seoul has been unable to assimilate all of these low income families, and they have built squatter dwellings on the city's outskirts.

The government has therefore felt it necessary to initiate a series of measures to deal with this housing problem. Sloboda's supplementary paper adopts the thesis that housing construction should be stimulated through modification of building regulations or by government assistance to the sub-market for building materials and urban land. To date the Korean government had been attempting to assist the urban land market through the Speculation Control Tax, land use zoning, expanding the supply of urban land in metropolitan areas, and the creation of a green belt around central districts. Sloboda points out, however, that in Korea and most of the developing countries the price of land and services still makes it impossible for a low income family to own a home. He therefore suggests that land prices be further lowered through application of a site value tax on the value of land for development. In this manner the government would provide indirect assistance to the solution of the housing problem. Sloboda's paper elaborates the advantages and disadvantages of such a tax in the Korean context.

B. Kwangju New Town

An example of more direct legal intervention in the Korean housing situation is provided by the construction of Kwangju new town, near Seoul. It must be pointed out that the Korean government was late in recognizing the need for comprehensive urban development, and the problem of regional planning was largely ignored. Sveda's article (11) explains the regional planning background which contributed in part to the decision to create Kwangju, which Mr. Walker and Professor Kwon studied for this project. We will concentrate here on Walker's report. (12)

Walker finds many reasons for the decision to create the new town at Kwangju. Basically, they center around the increasing size and urbanization of Seoul, with all its concomitant advantages and disadvantages. As I have pointed out, heavy immigration to Seoul led to a housing shortage and the building of squatter settlements. The development of squatter housing on the outskirts of the city was detrimental to the development of Seoul and an attempt was made to deal with this problem. Kwangju was one of the projects which attempted to resettle the squatter families.

The chronology of the Kwangju project follows: The Kwangju site was approved in 1968 and Seoul City was authorized to purchase the necessary land. By mid-1969 construction of the main road and drainage system was under way and within three months 15,000 people had been resettled in the area, each family having been given a small plot of land. However, public services for these people were very

nearly non-existent and their first winter in Kwangju was hard. In addition to inadequate living conditions there were no employment opportunities and many wage-earners had to make a two hour trip to Seoul to work. By the end of the winter approximately a quarter of the people had left, having first sold their assigned plot of land. This sale of land was illegal, but there were growing numbers of people who wanted to move into Kwangju voluntarily and they were willing to buy. Furthermore, there was no legal technique which tied the settlers to the land they had been allotted, and the government also turned a blind eye to these resale transactions. This action by the private sector was important, and owing to the absence of interference from the government became an important key to the development of Kwangju.

Tales of hardship continued to come from Kwangju and so the government of Seoul acted in May, 1970, to improve the situation. They began to construct public service facilities for the area and to create industrial estates. The project was also helped by an agreement between the governments of Seoul and Kyongji Province, in which Kwangju is located, and which provides that money earned by Seoul in Kwangju will be re-invested there. This agreement appears to have been kept. Resettlement continued and the town had 150,000 inhabitants by mid-1971. Riots then occurred in August, 1971, and were sparked by settlers demanding jobs, and by second settlers (who had illegally bought plots from first settlers) protesting the price they paid for their land. After this riot the new city entered a more stable period.

Walker's report discusses the conceptual basis for creating Kwangju, the implementation of the project, and the settlement pattern. He first states that the concept of a satellite town is new to Korea, and that there have been difficulties in implementation which were not foreseen. For example, the industrial estates have been slow to develop, and some industries have been attracted, not to Kwangju itself, but to the green belt area north of the city which the government has not protected from development, though it has the power to do so. Walker fears that if the government carries out another of its plans and moves industry to the green belt area near Seoul, much of the conceptual basis for Kwangju and the green belt area will be destroyed. Walker next notes that the most noticeable developmental feature of the Kwangju project is the absence of open spaces and wide roads. This, he says, is typically Korean and reflects land shortages. The development is also typical of the usual Korean mix of residential, commercial and industrial development. Only the plan for industrial estates is new to Korean concepts of urban development.

Walker then analyses the implementation of the project, and it is here that he finds problems within the development process which have made its implementation difficult. Administratively, the power for developing Kwangju rests with the Seoul government. However, the new town lies in Kyongji province, and friction developed between the two governments which finally led to an agreement which clarified their responsibilities. Under this agreement, coordination of development in the project will be carried out by the Minister of Home

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Affairs, with an appeal to the Prime Minister. In addition, the agreement noted above concerning the reinvestment of money earned in the project was executed.

Land was also needed to carry out the project, and about ten per cent of the land in the project area was publicly owned. The purchase of the remaining private land caused difficulties, especially over price. The city wanted to freeze the price of the land as of the time the Kwangju project was announced, and initial purchases were made on this basis. However, as soon as the landowners learned that the city had no legal basis to hold prices down to this level they refused to sell their land, as under the law they were to be compensated for the value of the land at the time of taking. This value was in turn determined by the land use classification adopted by the province, over which Seoul had no control.

In view of these problems Seoul was willing to make concessions to assist the development of the project. The city tried to solve the compensation problem by offering landowners 20 per cent of the original agricultural land in the new town within a year of sale and in lieu of cash. This "exchange land" would allow the landowners to be compensated by the increase in land prices in the new town, but conveyance of the exchange land was delayed as it was not until mid-1969 that construction of the new town got under way.

Once the city obtained all of the necessary land it allotted plots to relocated squatters and voluntary settlers. Of the residential land 40 per cent was utilized for the relocation of squatters from

Seoul. To allocate the land fairly a lottery was carried out among the squatters. The rest of the residential land was held by the original landowners as "exchange land". Commercial land was sold at public auction to help finance the project. This land was called "reserved land", and was primarily placed along the road, where it could be a major revenue source for the project. Industrial land was sold at a minimum price to encourage the location of industry in the town. Public facility land is primarily used for schools, roads and green belts.

The methods used to finance the project were unusual but typically Korean, as the city government utilized profits from the sale of land in the project to meet project expenses. It was able to do this because it bought land in the project area before the project was announced, and then sold off some of the land for commercial development at the higher prices that obtained after the project got under way.

The behaviour of the people who moved into Kwangju forms the next part of Walker's report. He looks at the interaction between groups of people within the project insofar as this interaction illustrates the dynamics of the development process. He points out that three factors helped determine the settlement pattern:

1. The division of power between Seoul and the province;
2. Forced resettlement during project construction; and
3. The large number of people to be resettled and the timing of resettlement.

The first of these policies he illustrated by pointing out that

land allocation was carried out by the city but building permits were issued by the provincial government, a division of authority which often led to confusion. The early resettlement of people when services were not present also led to difficulties. Another important factor was the never-ending movement of people into the project, as fresh waves of settlers kept land speculation going. Often squatters sold their land at a high price and then bought cheaper land. With each new lottery for residential land and with each private auction of reserved land a new cycle of price increases began.

Walker divides the residents of Kwangju into those who chose finally to move out of Kwangju and those who chose to remain. Initially a large number of people decided to leave Kwangju, mainly because of a lack of jobs and facilities. However, as the population of the project grew the proportion of the people who stayed began to increase. Measures were then taken to create jobs so that the satellite town could move toward self-sufficiency.

The area was by then inhabited by original settlers, second owners, and renters. Walker found that approximately one-third of the residents are renters, many original settlers having sold their plots and stayed on in rented properties. Original settlers often had to sell their plots because they were too poor to build on them. Their tendency to sell was reinforced by a policy which required a house to be built on a plot within a month of its acquisition under the lottery. This policy was intended to keep land speculation in check, but it often forced resettled squatters to sell their land

so that they could buy cheaper land elsewhere in the project where they could afford to build. A second policy required any person who bought from an original settler to pay the government the increased purchase price immediately. This second policy was an attempt to keep the first settlers in the project, but it was not effective as many "second owners" did not know of the immediate payment regulation. In fact, their anger at this rule was a major factor in the August, 1971, riots.

Walker concludes that the forced resettlement program evolved into a pattern in which people either sold their land and went back to Seoul or stayed in Kwangju as landowners, renters or squatters. He indicates that the project has been successful to the extent that it has attracted voluntary settlers from Seoul. However, difficulties have developed in the project which were not anticipated, primarily because of land speculation and the failure to provide needed services and jobs in sufficient quantity. Whether Korea should be encouraged to improve its governmentally-sponsored development programs, such as Kwangju, or to facilitate the urban development and settlement process through more indirect methods, such as the site value system recommended by Sloboda, is an open and important question.

C. Regional Development Planning

Young's paper (13) describes the regional planning process in the Philippines. It begins with some working definitions, as Young points out the

different meanings of regional development and states that "development" will be defined in accordance with the stated objectives of the regional development agencies under review. He then states that the kind of "region" under discussion in this report will have defined characteristics which are:

1. It is sub-national,
2. It is multi-jurisdictional,
3. It is designated as a development region by the national government,
4. The purpose of the designation is to improve the economic and social development of the residents of the area.

Young points out that a regional development agency is an organization which is responsible for bringing about "development" within a specified geographic area.

Young then states that the Philippines was selected as an environment for a study of regional planning because it has a polynucleated political system and has made several attempts at regional development programming. Generally, it can be stated that the structure of the Philippine government is similar to a single state in the United States. It has a popularly elected President, a bicameral legislature, and a local government system of provinces, cities, and municipalities which are subject to the legislature. The system is decentralised, and local influence is important, especially as national officials require the help of local political leaders in national elections.

Young selected three agencies for his study, the Mindanao Development Authority (MDA), the Bicol Development Planning Board (BDPB),

and the Laguna Lake Development Authority (LLDA). In this summary of the Report I will discuss only one of his agencies.

This study was started in expectation of finding certain key variables which could explain the success or failure of these original agencies. It was assumed that the more direct the tie with the national President the more successful the agency would be. However, it became obvious early in the study that the opposite appeared to be true, and it became apparent that one could not analyse these agencies without considering the impact on their success of the local-national system of electoral bargaining. Young states that this impact is more important to the success of an agency than the competence of its personnel, intra-bureau conflict and competition, and structural arrangements within the agency and within the government as a whole. These latter factors have usually been accepted as having the most impact on a planning agency's program.

To give a clear picture of Young's study I will take one of the agencies on which he bases his report and describe his treatment of it and his conclusions. The Bicol Development Planning Board (BDPD) was born at a seminar in 1964 and its members were all elected Bicol provincial and city officials with their chiefs, assistants, national agency directors, and various resource individuals. Initially it attempted to stimulate regional officials to participate in development planning and to provide training programs in the field. Official recognition for the Board was given on July 27, 1965, by an Executive Order which stated that the Board:

"shall conduct scientific and systematic surveys of the assets and potentialities of the Bicol region, plan its development, and pool the resources of the provinces and cities thereof for the implementation of programs to enhance the economic, social, industrial, and commercial development and the general welfare of the region and its people."

Of the seven powers given to the board the most important were:

1. To act as the technical arm of the Bicol provincial and city executives on matters concerning regional planning; and
2. To advise and assist local planning boards in the region.

The Board ultimately consisted of the governors of the six Bicol region provinces and the Mayors of the three cities. Financing was to come from the provinces and cities in an amount agreed initially and eventually fixed at one and one-fourth per cent of the annual budget of each participating government. Local planning development departments were to gather data, prepare plans for the locality, and in addition assist in preparing the regional plan in that district.

Young points out that trying to draw conclusions about this agency is difficult because traditional criteria do not apply to an organization whose goal is to plan rather than to undertake specific projects. He concludes, after surveying its history, that the tangible accomplishments of the BDPB over its first seven years are few. These include numerous meetings stressing the need for planning with many groups; many project

plans but no comprehensive plan for the region; and improving road and air transport into the region.

However, by mid-1971 the BDPB was no longer effective, and a Government Reorganisation Panel even suggested abolishing the Board. Even the Board was uncertain of its mission. Funds began to run out in 1970 and 1971, and as the provinces and cities were not able to support the Board it was reduced in size by one-half. By mid-1971 the Board had drafted legislation transforming its funding from a local to a national base. This change, it was maintained, would not alter the policy of the Board.

Although the creation of a competitor, the Bicol Development Corporation, was a factor in BDPB's failure, it was not the only factor. Young advances other reasons, such as an inability to obtain support, even from its most active founders. But the failure is basically explained by the influence of local and national politics.

Young points out that the national President has four powers over regional agencies. He may:

1. Appoint boards;
2. Release funds;
3. Resolve bureaucratic conflicts; and
4. Veto legislation.

The second power is very important. Funds made available for agency expenditure may not be utilized unless released by the President.

In his power over the release of funds the President has a heavy control over BDPB, and has used it to undercut its financial support.

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Congressional influence is also exercised over regional agencies, through its authority to establish and alter agency powers and structures, appropriate funds, and investigate agency operations. Congressional control is usually not as powerful as the President's. Initially BDPB had no contact with the national legislature, but in 1971 it did obtain Congressional appropriations.

National and local party politics also have an important influence on a regional planning agency's program. The party system is led by the President, and he uses the system to enhance his position. As he is dependent on the party for his office, the party's interests dominate. This party system of leadership is often detrimental to the local regional agencies. When all is going well the agency thrives. When political problems occur the agency has difficulty surviving. To prevent total destruction of the regional agency local politicians have to be sufficiently strong to withstand the party and to maintain the agency's interest. Any conflict within an agency's region between party leaders also has a detrimental effect on the agency, as local political leaders may frequently shift parties to obtain greater material rewards. These switches in affiliation can often hurt a regional planning agency which ends up on the wrong side of a political dispute.

Other governmental agencies are also important. The regional planning agency must maintain a good relationship with the national bureaucracy. It is an important link to other agencies and to government bureaus. Courts are important, as the party and President can use them against the agency. However, owing to the time and expense

factor, the judicial process has not been used extensively. At all stages of decision-making the private sector also intervenes in the agency program, and it maintains this access through the political system.

It is evident from this discussion that it is politics and patronage that sustains these agencies, and Young states that none of the three agencies studied were free from national or local political influence. He concludes that if the agencies are to survive and be successful they must be protected from corrosive political power. For example, dependency for funding on the President should be broken, or at least minimized.

IV. CONCLUSION

This summary has analysed some of the case studies that were undertaken in this project from two perspectives--their ease of execution and the impact they had on social, political, and economic institutions in the countries in which they were undertaken. I might now conclude with some brief additional comments on the relationship between the legal systems of these two countries and the impact on these systems of the cultural setting in which they must be utilized. Magavern's model is again helpful here, and it can be constructively applied to an analysis of the contrasting Kwangju and San Juan projects.

The Kwangju project was carried out by a highly centralised government which reacted to an urban crisis, a squatter city on the edge of Seoul. Seoul, which is legally responsible solely to the President, acquired land and ordered development, organised land lotteries, and even before the new town was started moved thousands of people out to the new settlement. The city ordered contractors and industry into the area, and when failure threatened took what action they could to revive the project.

Technically speaking, Kwangju is a massive project for a legal system to undertake and many inadequacies in the legal system became apparent. For example, restrictions on building and on the sale of land proved difficult to enforce. Only a highly centralised governmental system allowed the government to "muddle through" with this project. Ultimately, a riot was needed to bring change.

On the other hand, the San Juan study illustrates the small-scale conflict, often ending in litigation, which is typical of the Philippines. The key to the success of the San Juan High School project was the Mayor's personal commitment. In a system where, as we have found, personal politics is the key to success, this type of commitment carried the day, managing to overwhelm even the attempt by squatters on the school site to prevent its use for another purpose.

FOOTNOTES

1. Volume I, The Capacity of the Legal System to Facilitate the Urban Development Process: Korea and the Philippines. SEADAG Project No. 70101, Article 1, at page 3. Henceforth the following citation form will be used: I, Report, (1), at 3.
2. I, Report, (2).
3. I, Report, (2), at 7.
4. II, Report, (2).
5. Supplementary Report: Sloboda, J.E., Housing, Land and Socio-Economic Integration--viewed through the "Housing Problem" in Seoul, Korea, 1972.
6. I, Report, (3).
7. II, Report, (1), at 141.
8. II, Report, (1), at 157.
9. II, Report, (1), at 202.
10. II, Report, (1), at 213.
11. III, Report, (2).
12. II, Report, (2), at 1.
13. I, Report, (3).

LIST OF PAPERS SUBMITTED:**THE CAPACITY OF THE LEGAL SYSTEM TO FACILITATE THE
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PHILIPPINES**

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Project No. 70101

DANIEL R. MANDELKER

Project Director

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1. D.R. Mandelker, Capacity of the Legal System to Facilitate the Urban Development Process: An Outline of the Problem, 12 pp.
2. J.L. Magavern, Problems of Law and Development in South Korea and the Philippines, A Comparative View, 22 pp.

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3. M.B. Young, The Impact of Political Institutions on Regional Development: A Case Study of the Philippines, 336 pp.
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9. H. Walker, Urban Development in Korea: The Development Process in Kwangju Taedanji, 63 pp.

IV. Supplementary Paper:

J.E. Sloboda, Housing, Land, and Socio-Economic Integration--viewed through the "Housing Problem" in Seoul, Korea.

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