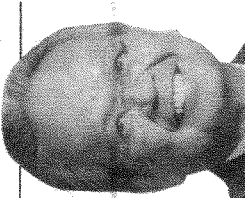


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Legal empowerment of the poor



**WITH DUE
RESPECT**

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JOSE CRUZ (NOT HIS REAL NAME), A LAD BARE-ly in his teens, wakes up at four o'clock every morning to be able to catch the early delivery of the newspapers he peddles to motorists at a busy intersection in Makati.

Poverty and powerlessness. Normally, he finishes selling at 7:30 a.m., walks back to his family's all-purpose shanty along the "riles" in the South Super Highway, enjoys his breakfast of boiled rice mixed with condensed milk, and then joins his partly paralyzed mother in watching over their makeshift "sari-sari" store. Making a living takes up all his time, with none left for schooling, or learning a trade, or developing a skill to improve his future.

Having migrated from Sorsogon several years ago in search of opportunities better than the P50 his half-paralyzed mother earned as a farm hand in an almost abandoned coconut plantation, Jose ended up as an "informal settler" (OK, a squatter). He and his two younger sisters have no birth certificates, because their mother was too embarrassed to admit that they were born of an itinerant father who was married to someone else. Neither did they have any legal residence, nor title to their minute shack cum stall, nor medical attendance for their recurring body sores.

Many times in the past, policemen and thugs had raided their squatter settlement in search of illegal drugs, or alleged robbery suspects. At some other times, government agents had demolished their squalid hutch, because they had to be vanished from the view of some visiting foreign VIPs who were scheduled to pass the highway.

The poverty and powerlessness of Jose make the Bill of Rights an empty rhetoric; because he has no access to effective legal protection, to the social security system, and to integration into the economy. He is just a hairline away from a life of crime and violence; and his sisters, from prostitution and vagrancy, none of which is palatable to him or to the nation.

Conference on legal exclusion. To instill

of any lawyer who would waste time to protect their insignificant livelihood.

Essential to liberty and prosperity. But society has a big stake in Jose and his sisters, not only to protect their constitutional rights but also to prevent them from becoming more dangerous risks, from degenerating as the legally excluded poor to being socially condemned criminals. On the other hand, orthodox rule of law cannot adequately help them because of their legal exclusion.

To snatch Jose and his brood from hopelessness, they need legal empowerment, not just the rule of law; they deserve social justice, not just empty legalisms. To propel them to the social mainstream, they have to be understood in their circumstance of total helplessness.

In this context, I believe the ESCR-UNDP-Legal Empowerment confab deserves as much attention as the State of the Nation Address of the President and the National Consultative Summit on Extra-Judicial Killings of the Supreme Court.

As a jurist, I have always thought that the rule of law was sufficient to guarantee my twin vision of safeguarding liberty and nurturing prosperity. However, this conference has convinced me that the fulfillment of this beacon of **liberty and prosperity for all** requires not just the rule of law but also the legal empowerment of the poor.

For this awakening, I am sincerely grateful to ESCR chair Glenda T. Litong and ESCR executive director Resurreccion Lao, who invited me to preside over "session one" of the conference, and to Dr. Naresh Singh of the Commission on Legal Empowerment, who flew in from his headquarters in New York to be able to help in formulating means and measures to legally empower the Filipino poor. Significantly, the commission is co-chaired by former US Secretary of State Madeleine K. Albright and acclaimed Peruvian economist Hernando de Soto.

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hope to the hopeless like Jose Cruz, the Economic Social and Cultural Rights-Asia Inc. (ESCR), in partnership with the United Nations Development Program (UNDP) and the UN-affiliated Commission on Legal Empowerment for the Poor, sponsored last July 25-26 a national policy conference on the "nature, dimensions and extent of the legal exclusion of the poor."

The 200 or so participants discussed how the poorest of the poor can be "legally empowered"; that is, how they can be made to "overcome the constraints that prevent them from accessing the legal system, and allow them to gain more control over their lives..."

When violations of rights are committed, most lawyers would invoke the "rule of law" to protect the victims. Ordinary or "orthodox" rule of law implies the use of ideas, institutions (especially the courts), officials (like lawyers and prosecutors), and strategies that are alien to the day-to-day existence of the very poor. Laws are enacted without consulting them; in any event, laws are too complicated for their unschooled understanding. Further, they do not know how to avail of their protection; lawyers' fees and docket costs are beyond their means.

Understandably, the overriding concern of Jose is his family's meal for today, not the cases he could bring tomorrow to redress the illegal demolition of their minuscule stall yesterday. And even if he had the luxury to think about vindication, his abject poverty legally disadvantages him in many ways: (1) he lacks legal status (he is a minor) and residence; (2) their mini-store is not registered and thus has no permit; and (3) he does not know