Symposium: An International Comparison of Legal Services for the Poor: Introduction
AN INTERNATIONAL COMPARISON OF LEGAL SERVICES FOR THE POOR*

INTRODUCTION

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During 1976 the American nation celebrated the bicentennial of the Declaration of Independence, the statement and act that symbolizes the origin of the American republic and our common aspiration for ordered liberty. The idea that everyone in society, without regard to station or resources, should have access to the institutions of justice is inherent in the liberty, equality, and due process that the new nation was created to protect and advance. Its recognition, however, has come later in our development. The creation of institutions to provide civil legal assistance to the poor—the legal aid movement—has covered only half of the years since 1776, and only in the last ten years have publicly funded legal aid services begun to make a reality of the great principle of equal access to justice.

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From 1875 to 1965 the legal aid movement, which conceived legal assistance to the poor as a professional obligation of the private lawyer and as a form of private charity, made a modest but essential beginning. From 1965 to 1975 the legal services program of the Office of Economic Opportunity demonstrated the potential of a publicly funded staff-attorney system to meet the legal needs of a substantial number of poor Americans. In 1975 the establishment of the Legal Services Corporation, an independent and nonpartisan public corporation with federal funding, opened the way for a more aggressive program of delivering high quality legal services to the poor. The consideration of more effective delivery systems, including various combinations of staff-attorney and judicare approaches, is now underway.

These developments make it especially appropriate at this time to consider legal services in a comparative perspective. This symposium brings together three people who can contribute to the understanding and evolution of our institutions by looking at them in the light of those of other developed societies: Mr. Bamberger is one of the leading participants in publicly funded legal services in the United States; Professor Schlesinger is one of the nation’s leading comparative law scholars; and Mr. Gordley, a promising younger comparativist, is the author of an excellent recent book examining the legal services programs of major countries.

Today's discussion deals with one of the major issues that the legal profession now faces: how can we structure and deliver high quality and effective legal services to the poor at a price we can afford? It also raises a number of other important issues: the role of lawyers in different societies; the relationship of citizens to government in the era of the welfare state; and the inevitable tension in any legal services program between broader social change (distributive justice) and service to particular individuals (commutative justice). The task of providing equal access to quality legal services requires constant scrutiny of the methods applied in our attempt to reach that goal. We cannot afford to ignore the experience of others, for to do so would only prolong our search for the best possible system.