



Making the Law Work for Everyone

Acknowledgments

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Introduction

Co-chaired by former US Secretary of State, Madeleine Albright and Peruvian economist Hernando de Soto, the Commission on Legal Empowerment of the Poor is the first global initiative to focus specifically on the link between exclusion, poverty and law.

Poverty manifests itself in multiple ways. One of the staggering facts about poverty is that the vast majority of the world's economy lives their daily lives in what is often referred to as the *informal* or *extralegal* sector. At all levels (individual, family, community and national) the lack of access to effective legal protection and formal policy and welfare systems, as well as a lack of recognition of economic assets/activities, worsens existing vulnerabilities and further constrains the economic and social development opportunities of the poor. When the majority of the world's populations live their lives in the informal sector, and the formal economy is dwarfed by the informal, the result is lower growth, less revenue and less room for investment in health, education and infrastructure. In addition, corruption and the resulting governance problems may affect the informal sector even more than the formal sector; this is significant due to the known negative impact on economic development, poverty reduction and effective social service provision.

The Commission's unique mission is built on the conviction that poverty can only be reduced if governments give all citizens, especially the poor, a legitimate stake in the protections provided by the legal system, which should not be the privilege of the few but the right of everyone. Thus the Commission sets out to explore how nations can reduce poverty through reforms that expand access to legal protection and opportunities for all. The Commission, which is composed of policymakers from all over the world with long experience leading reform initiatives, is unique in that it seeks to solve problems as opposed to deliberating them.

There are both similarities and differences in the way countries around the world, and over time, have approached the challenge of legal empowerment. These experiences are only partly understood, both in terms of their key attributes and their outcomes. Furthermore, there has been no systematic effort to compare or synthesise lessons learned across global experience in this area. One of the essential tasks of the Commission is to examine a representative selection of such experiences in order to identify promising reform paths and tools. Ultimately the Commission seeks to use these experiences to influence real outcomes on the ground. In order to succeed, the Commission must achieve fundamental change in relation to how international development institutions approach development and poverty reduction, as well as capture the public

interest around the world and stimulate demand for such changes at all levels.

One of the objectives of the Commission is to legally empower informal sector actors so that their informal contracts have the protection of the law, and that a safe, secure and equitable way is found for their integration within the mainstream economy. This is considered necessary for empowering them to derive due benefits from the growing national and global economy.

The key elements of the strategy to achieve the desired outcomes are as follows:

- Create political climate for change.
- Synthesize global knowledge relevant to the legal empowerment agenda. To this end, four areas of focus have been identified: Access to Justice and Rule of Law, Property Rights, Labour Rights, and Legal Mechanisms to Empower Informal Businesses. Working groups have been established around each of these themes. A rapporteur or technical team-leader, who works closely with the working group Chair (a member of the Commission), to coordinate its work, manages each working group.
- Promote the legal empowerment agenda at national and regional level and capture local experiences.
- Develop policy recommendations and tools that will guide policymakers in the implementation of reforms at the country level.

Gender equality and the rights of indigenous communities are central to the legal empowerment agenda. These issues have been mainstreamed across the work of the Commission, and specific strategies and recommendations have been generated in all its areas of work.

This is the second of two volumes of the report of the Commission on Legal Empowerment of the Poor and consists mainly of the outcomes of five working groups established to inform the Commission's deliberations through substantive work in the thematic areas of Access to Justice and Rule of Law, Property Rights, Labour Rights, Business Rights and with respect to overall implementation strategies. The working groups consisted of a core of between five and seven experts and stakeholders in their individual capacities from around the world, with leading edge expertise and experience in the theme to be studied.

Each chapter is devoted to the findings of one of the working groups and numbered accordingly.

Chapter 1, *Access to Justice and Rule of Law*, focuses on how the poor can be legally empowered and poverty reduced by improving access to justice and expanding the rule of law, as defined by national views and structures. The working group considered

the top-down and bottom-up processes necessary for generating effective reforms and practical recommendations, and examined the legal tools accessible to all citizens so that they can protect their assets and use them to create trust, obtain credit, capture investment, access markets, raise productivity and protect their rights.

Chapter 2, *Property Rights*, examines how the poor can be legally empowered and poverty reduced when they have fungible rights over property and other assets in a transparent and functional manner. Because capital has a tendency to concentrate, contributing to the economic exclusion of marginalized groups, legal systems, which give the poor access to structured businesses, expanded markets and labour rights are required for their legal empowerment.

Chapter 3, *Labour Rights*, looks into how the poor can be legally empowered and poverty reduced when the gap between the formal and informal economy is bridged and labour rights are respected. The working group studied the factors that constrain participation in the formal economy and the challenges to enforcing labour rights. The group made practical recommendations on how to facilitate convergence between formal and informal systems and the enforcement of labour standards.

Chapter 4, *Business Rights*, studies the factors that preclude the poor from benefiting from full participation in the formal economy, with a specific focus on the regulatory environment for micro, small and medium sized businesses. It also examined local financial capacity and incentives for lenders to expand access to credit for individuals and enterprises owned or operated by the poor.

Chapter 5, *Road Maps for Implementation of Reforms*, synthesises the key practical outputs of the work of the other chapters / working groups into a tool kit for use by policymakers around the world. Work in this chapter draws on existing guidelines, frameworks, manuals, indices, indicators and other related aids, which can help the key audiences of the Commission and facilitate the implementation of its policy recommendations. The aim of the tool kit is to support policymakers in proposing reforms and, once implemented, in measuring their results.

The chapters contained in this volume reflect the views of the respective working group members, though not necessarily the view of the Commission.

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