



First Meeting of the Commission on Legal Empowerment of the Poor, 20-21 January 2006

Co-Chair's Outcome Document

The Commission on **Legal Empowerment** of the Poor convened for its first meeting in New York, January 20-21, 2006. The purpose of this initial meeting was threefold: (1) to discuss key conceptual issues embedded in the Commission's mandate in order to seek a shared understanding of this mandate, (2) to identify some key outcomes that the Commission should aim to accomplish both within a short timeframe and over the life of the Commission, and (3) to identify key elements for how the Commission would work in order to achieve its goals, including how it would organize itself.

The first day of the meeting was attended by the Commissioners only. The second day, members of the Board of Advisers also attended. Representatives of the donor countries attended one session dedicated to relations between the Commission and its supporting governments. Representatives of the Secretariat, UNDP and UNECE, and staff of the Co-Chairs were present throughout the two days in support of the meeting.

The discussions were rich and gave rise to several points of consensus as well as issues requiring further discussion. Below is a brief summary of the deliberations. This summary does not seek to record the meeting verbatim, but rather to articulate a set of conceptual approaches that may guide the Commission's further work.

A. Conceptual issues related to the mandate

The first day was largely dedicated to detailed presentations and discussion of the conceptual issues related to the mandate of the Commission. After presentations, the following points emerged from the discussions:

1. Legal Empowerment dedicates itself to the *fight against poverty* by identifying and providing the poor with legal and institutional tools that allow them to benefit from greater security and to create wealth within the rule of law. Whatever recommendations the Commission will produce, these must all be driven by the objective of reducing poverty.

2. Legal Empowerment views a *rule of law* that is *just and enforceable* as a fundamental enabler of a stable society providing opportunities for all citizens. Governments need to be held accountable for developing and maintaining such a rule of law. The Commission will explore how governments and societies may make progress in this regard, specifically in terms of how poor citizens and communities may benefit from legal institutions and services, including enforcement of their legal rights.

3. Legal Empowerment considers that *democratic governance* is a fundamental aspect of empowerment, providing an enabling framework based on broadly accepted norms and



carrying instrumental attributes with the potential to enhance and expand political and economic opportunities for all citizens.

4. Legal Empowerment has been established based on a conviction that *exclusion* is a key factor contributing to poverty. Due to the varying capabilities and will of states to provide broadly based and fair access to key governance and state functions, a majority of the world's population is largely excluded from the political, legal and institutional functions and services that directly affect their economic well-being. This aspect of the poverty challenge may be as important as provision of education and health care, infrastructure, or improved social equity, but it has not been given sufficient attention by governments or by the international development community. Legal Empowerment will focus squarely on the challenge of legal exclusion, recognizing that the development challenge also requires action on other fronts.

5. Legal Empowerment views *legal empowerment* as fundamental for effective and meaningful poverty reduction. The poor cannot and should not be seen as helpless victims that can only be saved by charity. The poor have the means for improving their own lives according to their own aspirations, provided that governments and the development community invest in enabling circumstances. Legal Empowerment also recognizes that legal empowerment will not eliminate the need for significant development assistance to developing nations.

6. Legal Empowerment acknowledges the *risks* inherent in reform programs that attempt to create an enabling environment for the poor. Without political will and social consensus, well-intentioned reforms can fall short of their intended outcomes, and in the worst cases, exacerbate poverty. Legal Empowerment will take the risks associated with reform into full consideration, not least for women and vulnerable groups such as indigenous people.

7. Legal Empowerment views access to *functioning property rights* as one of the critical elements of inclusive governance. People who do not have a degree of legally provided protection and autonomy over economic assets are denied fundamental opportunities for defeating poverty. Based on experiences around the world, broadening access to functioning property rights can be an important part of successful poverty reduction. Legal Empowerment recognizes, however, that this is not the only answer to eradicating poverty, but rather a key component to the solution.

8. Legal Empowerment will address other *interrelated aspects of legal exclusion* such as *labor informality, lack of opportunities to form legal business organizations, lack of identity devices, lack of access to justice, and exclusion from the financial sector.*

9. Legal Empowerment recognizes the *complexity* of the issues it will address. It can make an important contribution to the global debate on poverty and development by adding the right to property on the agenda along with other aspects of exclusion. However, several points were stressed in this regard:

- The words ‘property rights’, though used in most national constitutions and multiple international treaties, including the Universal Declaration on Human Rights, are understood by some as representing an ideological stand that privileges the few and excludes the majority. The Commission will be careful to ensure that the words ‘property rights’ are always understood as institutions of inclusion in order to avoid misunderstandings in terms of intent and objectives.
- All forms of property rights are part of the equation, whether they are individual, communal, collective -whether their origins are legislative, regulatory or customary—provided they respond to the aspirations of people concerned. The range of property rights should also be examined in terms of their effects on reducing poverty by creating wealth and combating exclusion. Fungibility is one important aspect of property as a tool for generation of wealth.
- The Commission recognizes the importance of labor rights and will pursue a balanced menu of options, including labor formalization, access to business organizational forms and identity mechanisms to access expanded markets.
- New opportunities are emerging for broader participation in the global economy, through developments such as expansion of information and communications technology. Migration is another key aspect of globalization, creating—inter alia—financial streams back to home countries through remittances. These trends must inform the discussion on the role and importance of different development policies, including the ones at the center of this Commission’s agenda.

10. Legal Empowerment recognizes that reforms must reflect the *unique context and experience of each country*. Recommendations can only be implemented where national governments and civil societies have taken ownership of the reform process, and successfully adapted those recommendations to their local context. Although the same property and labor rights should apply in many different countries, the Commission recognizes that reform recommendations will not be “one-size-fits-all”.

11. Legal Empowerment believes that *creating institutions that are inclusive of the poor* and give voice to their needs is not only fundamental for reducing poverty but also for creating more stable and peaceful societies and more stable international relations. Legal empowerment of the poor is fundamentally about strengthening human security and building functional nation states.

12. Legal Empowerment is committed to *deepening international knowledge and understanding* of how governments can go about creating a more inclusive legal and institutional order that provides the poor with broader access to enabling functions and services key to their well being and economic opportunities.



13. Legal Empowerment believes *access to information* is a key enabler for making real progress. The challenge of implementing programs and reforms that can have a real impact on poverty and exclusion is poorly understood. The experience of countries that have made successful strides is poorly researched and disseminated. Knowledge about the experience and results of international development assistance is scattered and disorganized. The experience of international financial institutions is not fully available for systematic analysis and assessment. Legal Empowerment must help bring about a baseline of knowledge and understanding of relevant experiences around the world.

14. Legal Empowerment is fundamentally a body dedicated to the *political dimension of development*. The challenge of building a more inclusive order is fundamentally political in nature. The Commission is acutely aware of this issue.

B.) Next Steps for the Commission:

The Commission discussed the following steps for its immediate consideration:

1. Agree on a final platform (to which this document is meant to be a contribution).
2. Formulate a strategic work plan for the life of the Commission, including for Working Groups, as defined in the Concept Paper and Stock Taking and Analysis Paper.
3. Conduct a series of workshops in different regions around the world to explore specific themes while involving a broader range of constituencies, including broad representation from Civil Society and NGOs.
4. Address the heads of international financial institutions (IFIs) to make a formal request for access to relevant archived documentation of their respective project experiences around the world. This information would contribute to a common historical archive of lessons learned.

C.) Longer Term Proposed Outcomes:

The Commission discussed what it should aim for in terms of principal outcomes or results. In broad terms they were:

1. Significantly expand understanding around the world about the importance of building more inclusive legal and institutional orders capable of serving the population at large. It is particularly important that governments and development agencies absorb this insight. However, it is crucial that the information is effectively disseminated both in the South and the North.
2. Significantly expand understanding of *how* such reforms can take place. What is the available menu of reforms? What can be implemented in the short term and what are the measures that require careful and gradual implementation? What are the significant risk factors that must be managed? What are the key differences to take into account across regions, rural vs. urban circumstances, etc?



3. Significantly increase attention, momentum and willingness to act. As a result of the Commission's work, there will be ambitious reforms underway in a number of countries. International institutions will be prepared and ready to support such efforts, based on in-depth understanding of global experience to date.

4. In more specific terms, several *possible* outcomes were highlighted by Commissioners:

- Global experience documented in a way that brings out key lessons and variations from across the world.
- A succinct Commission Report summarizing global experience and laying out a broad action agenda for governments.
- A more detailed reform 'toolkit' for policy makers.
- A proposed global *Charter on Legal Empowerment of the Poor* that can be tied to relevant Human Rights Conventions.
- A new body or institution with a concrete mandate to monitor progress and accountability in this area, or a mandate incorporated into an existing body or institution.
- A specific funding mechanism.

Note: The first three suggestions seem to have broad backing and have been brought forward from the original Concept Paper for Legal Empowerment the others would require further discussion.

D.) Proposals on How Legal Empowerment will Work

The Commission members identified a number of ways in which they would work as an entity and as individuals to advance Legal Empowerment's agenda and achieve its outcomes:

1. The work of Legal Empowerment will be *evidence-based, empirically grounded and non-ideological* - conditions vary significantly over time and space. Legal Empowerment expects that there will be variations across countries and regions in the kinds of policy approaches that will be considered relevant and appropriate. At the same time, Legal Empowerment does believe that there will be important common characteristics, both in terms of the realities of exclusion and in terms of viable approaches for addressing exclusion.

2. Legal Empowerment will always strive to speak out for the interests of the poor and excluded. It will fundamentally *report to "the people" all over the world.*

3. Legal Empowerment will passionately speak out to those in power on the need to expand access to opportunity for all. At the same time, Legal Empowerment will seek to demonstrate



the broad benefits to all citizens, including the elites, of moving toward a more inclusive and just legal order.

4. The Commissioners are committed to the objectives of this Commission and are dedicated to contributing in any way they can. Attendance in meetings and events will be given high priority. Likewise, the Commissioners are ready to engage in public debate in their own countries and regions, and globally. Commissioners will commit to the agenda as it evolves and learn from the experience and knowledge that will emerge through the Working Groups. It is expected that some of the Commissioners will take leadership roles in Working Groups.
5. Legal Empowerment will carry out its work with clarity and transparency, within a framework that ensures Commission members are accountable to their peers and to other Commission stakeholders (Board of Advisors, donors, etc.). The Commissioners are committed to a completely fiscally transparent process with a clear accounting of *all* use of funds.
6. Legal Empowerment will approach all interested parties in an open way. It will engage a broad range of stakeholders in dialogue and debate. It will not be afraid to take a stand on the issues and it will not water down controversial positions in order to appease specific interests.
7. Legal Empowerment Working Groups and the Board of Advisers will include representatives with strong credentials among poor constituencies. Legal Empowerment will demonstrate its commitment to involving and engaging the key stakeholders in its agenda.
8. Legal Empowerment will maintain a close dialogue with the donor countries, and draw systematically on the Board of Advisers.
9. Legal Empowerment will engage at the regional level through specific events and meetings organized with the involvement of Commissioners; meetings organized by any of the Working Groups; participation in relevant conferences and meetings organized by partner and external organizations; and visits by Commissioners to specific countries.
10. Commissioners will make use of their respective networks in global, regional and national policy circles to advance the agenda of the Commission.
11. Legal Empowerment may choose to engage interested governments in the process of planning or implementing relevant reforms on a select pilot basis. This can be done in partnership with multilateral or bilateral agencies supporting such programs.
12. Legal Empowerment will actively engage the media to seek broad public attention around its agenda. However, it should first agree and fine tune internally its key messages. The Secretariat needs to develop a strategy for media outreach that incorporates key messages and effectively 'brands' the Commission's mandate and outputs.
13. Legal Empowerment will strive to avoid duplication with other previous or ongoing efforts. It will build on the findings of previous relevant commissions, such as the



Commission on the Social Dimensions of Globalization, the Commission on Private Sector Development, etc. Legal Empowerment will draw on the extensive analytical work of institutions such as the World Bank, ILO and others. The Commission will seek access to the experience of international development cooperation, from both bilateral and multilateral agencies.

14. Legal Empowerment will develop a systematic approach for dialogue and interface with the private sector.

15. Legal Empowerment will depend on a highly qualified Secretariat that can provide the required support and coordination functions. Electronic communications should be used extensively between and among Commissioners.

16. The Co-Chairs should not, at least for now, establish an Executive Committee but rather include all the Commission members in the process of communication and decision making. Establishing tight deadlines for input will be essential for this decision-making model to succeed. If it does not work in practice, an Executive Committee can be established.