

## Legally empower the poor, unlock human potential

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Washington

Last week, *The Jakarta Post* reported on the efforts of ojek drivers in Jakarta to become an official form of public transportation. An executive of the Jakarta-based Indonesian Motorized Ojek Association (Ponsi), John Kornelis, was quoted as saying "ojek drivers face the usual problems faced by any mass transportation operator, but we don't have any access to legal rights."

The release of the National Socioeconomic Survey-based poverty estimates by the Central Statistics Agency (BPS) showing an increase in the head count index of poverty from 15.97 percent to 17.75 percent of total population across Indonesia, has received significant coverage in the press recently. The increase in poverty has raised the legitimate question of what needs to be done to alleviate poverty.

Is economic growth alone sufficient? How does one ensure equitable distribution of growth? What factors impact on poverty?

One factor that is inextricably linked to poverty is the lack of legal protections for the poor. Over 70 percent of the workers in the developing world survive in the informal economy.

Without basic legal protection their homes, assets and hard work are not recognized. Without property rights, they live in fear of forced eviction. Without access to a justice system, they are victims of corruption and violence. Without enforceable labor laws, they suffer unsafe and abusive work conditions.

Conversely, extending legal protections, such as property rights and labor rights to the poor can provide them with greater certainty, access to capital and

incentives to work their way out of poverty. Enforceable legal rights give the poor the security to invest in their future rather than live from day to day.

The majority of the world's three billion poor people live their lives outside the rule of law. The efforts of the ojek drivers to legitimize their business highlights the fact that they wish to participate in a system that doesn't discriminate between the rich or poor, and that they see this as a key to improving their livelihoods.

Four key areas need to be addressed to legally empower the poor and help them move out of poverty:

First, better access to the formal justice system and the rule of law is required. A number of research projects on access to justice in Indonesia highlight the fact that villagers perceive the formal justice system as having one set of rules for the rich and one for the poor.

As one village leader in Lampung commented "our legal system is like a spider's web: if it's a little insect that flies past it will be caught, but if it's a bird that comes along, it will just break the web."

As a result of this, the poor are much more likely to turn to informal dispute resolution systems. They see informal mechanisms as being cheaper, quicker and easier to use than the formal system.

Second, an inclusive system of property rights is required. Hernando de Soto's seminal work, *The Mystery of Capital*, showed that many of the world's poor possess assets of some kind. What they lack is a formal way to protect and exploit the full potential of these possessions as wealthy property owners do.

They are therefore stuck in the 'informal economy.' Creating an enabling system of

property rights, obligations and enforcements will enable the poor to protect their assets and use them to create trust, obtain credit, access markets and raise their productivity.

Third, labor rights need to encourage the poor to move to the formal labor system. Employment in the formal sector provides the poor with the protections of a minimum wage, insurance and job security. There needs to be clearer understanding on the constraints that limit participation in the formal economy and the challenges to enforcing labor rights.

The lack of enforcement of labor protections reduces the incentives of the poor to enter the formal system.

Finally, the entrepreneurial efforts of the poor need to be acknowledged and encouraged. The emergence of ojek drivers following the banning of becak (pedicab) drivers in 1994, as highlighted in *The Jakarta Post's* article of last week, is replicated throughout Indonesia and globally.

When market opportunities appear, the poor have consistently proved they are capable of capitalizing on them.

Whether it is the street vendors throughout Jakarta selling whiteboards, plants and an array of other goods or villagers repairing damaged roads in rural Indonesia in exchange for contributions from passing motorists, these innovative entrepreneurial pursuits persist despite the lack of support from formal systems.

In an effort to unlock this human potential of the poor, the Commission on Legal Empowerment of the Poor was launched in January 2006. The Commission aims "to make legal protection and economic opportunity not the privilege of the few, but the right of all."

It promotes a wholly differ-

ent approach to the poverty debate — the inextricable link between pervasive poverty and the absence of legal protections for the poor. Co-chaired by former U.S. Secretary of State, Madeleine Albright and Peruvian economist, Hernando de Soto, the Commission's members include eminent policymakers from around the world.

The four areas identified above form the core of the Commission's work. Separate working groups, bringing together experts from around the world, have been established to assess what has and hasn't worked in empowering the poor in these areas. The working groups will develop a tool kit drawing on examples of best practice to support the reform process.

The outcomes of the working groups will be underpinned by a series of regional and national consultations. These consultations will document best practice and highlight areas that require reform.

In Indonesia, a national consultation is planned for November of this year. It is being organized by a consortium of civil society organizations, with Yayasan Lembaga Bantuan Hukum Indonesia (YLBHI) or the Indonesian Legal Aid Foundation) acting as a secretariat. Commission Member Erna Witoele, UN Special Ambassador for the Millennium Development Goals in Asia and the Pacific, is facilitating the consultation.

The Commission is working to address the problems experienced by Jakarta's ojek drivers and the millions of poor both in Indonesia and throughout the world, who continue to live and work outside the rule of the law.

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