

SUMMARY OF PROCEEDINGS OF THE THIRD MEETING OF THE COMMISSION  
New York: January 11-12, 2007

**1. Introduction**

The Commission welcomed new Commission member Clotilde Aniouvi Medegan Nougbo, President of the High Court of Benin, as well as new Advisory Board members Victoria Tauli-Corpuz, Chairperson, United Nations Permanent forum on Indigenous Issues; Jean Lemierre, President of the European Bank for Reconstruction and Development, represented at the meeting by General Counsel Emmanuel Maurice; and Louis Michel, European Commissioner for Development and Humanitarian Aid, represented at the meeting by Damien Levie, a member of Mr. Michel's Cabinet.

**2. Working Groups**

- 2.1. The Working Group Chairs presented the work plans of their respective group, as well as its added value and linkages with the other Working Groups. Detailed feedback for each WG is being forwarded separately to the Chairs of the groups. Each Working Group rapporteur should amend and further focus their work plan by the beginning of March and present it to the Secretariat, who will host a meeting during the same month of the Technical Coordinating Committee (composed of all the WG rapporteurs). This meeting will allow the rapporteurs to discuss the comprehensive framework that will underpin the work of the different Working Groups.
- 2.2. Overall, Commission members approved the work plans for WG 1, 3, 4 with the caveat that they would integrate the comments that they provided with at the meeting. The meeting agreed that the Co-Chairs and the Secretariat will draw from the meeting discussions and provide further guidance to the Chairs of WG 2 and WG 5.
- 2.3. The main task of the Working Groups will be to provide an overview of facts and historical experience in each thematic area, including an inventory of reform experiences (successes and failures), policy approaches, and data (including measures of informality). Based on their review, knowledge and experience, the WGs will provide future oriented policy advice on their respective themes (WGs 1-4), as well as seek to present strong evidence that will encourage governments to themselves investigate the issues and understand the costs and benefits of the status quo vs. reforms. The work of the WGs will also provide the empirical basis for, and contribute to the development of, a diagnostic or a framework that supports the final narrative of the Commission.

- 2.4. The Working Groups must gather and share knowledge with external experts and institutions, rather than developing new or original research, as the Commission does not have the capacity or the time to achieve this. The Secretariat will facilitate exchanges with institutions like the WB, ADB, UNDP, and others to ensure that global knowledge is made available to the WG members. The Communities of Practice (COPs) will be a good vehicle for achieving this. The Secretariat will also look for efficient ways to channel the learning from National Consultations into the WGs.
- 2.5. The Commission will develop a comprehensive framework for legal empowerment, rather than treating the thematic areas in a fragmented way. The WGs should bear this in mind; this does not mean, however, that all Working Groups will come to a consensus. There should be space for a plurality of views.
- 2.6. There is a general need for better definitions of key terms. Each working group is asked to define key terms from the perspective of their work for sharing with the other WG. The Secretariat will provide a draft list of definitions. (Note: some preliminary definitions were circulated for comment)
- 2.7. There is consensus among the Commission members that gender has not been sufficiently addressed/ highlighted in the different Working Groups, in particular WG 2. There is also a need to give more attention to the community level, rather than only professionals, businesses, and governments (local and national).
- 2.8. The Secretariat will work with the Chairs of the WG's to improve the gender balance, geographic representation and range of expertise of the WGs.

### **3. Communities of Practice**

The Secretariat demonstrated the use of the COPs. Commission members, members from the Board of Advisors, as well as donor representatives, were invited to become active members of the COPs. The Secretariat will provide ongoing support to meeting participants on how to access the COPs. The Secretariat will also ensure that information on the COPs is distributed to UNDP country offices and others involved in the National Consultation process.

#### **4. National and regional consultations**

Presentations were given on National Consultations in East Africa, East Asia, and South Asia. Commissioners addressed the sequencing and effectiveness of the National Consultation processes. In response to this discussion, the Secretariat would like to reiterate the purpose of the National Consultations and suggest some alternatives for making the consultations more effective.

1. The National Consultation processes (NCP) serves two purposes that should be clearly defined:
  - a) to take stock of the situation in a specific country with regard to opportunities and obstacles to legal empowerment in the different thematic areas, and provide an analysis of issues from a local perspective.
  - b) to involve a broad range of participants on a national level, and to promote awareness and ownership of the legal empowerment agenda.
2. The Commission must guard against providing policy recommendations until its work is complete.
3. The National Consultations will contribute to the legitimacy of the Commission's work, by drawing from experiences and evidence in a range of developing countries.
4. The Secretariat will move forward with planning missions in Western and Southern Africa and Middle East and North Africa in the first three months of this year. National consultation conferences and focus groups which are organized as part of the NCP involve listening and learning through diverse events. They are not prescriptive. National seminars which will present the recommendations of the Commission can be organized later when the Commission has finalized its report.
5. The participation of civil society, including the private sector, should be expanded. Gender issues will be dealt with more in detail and in a more consistent way as defined in the revised TORs sent to the authors of the thematic papers and host institutions involved in the NCP.

## **5. Donors**

The representative from Norway presented the views of those donors who participated in a donor meeting hosted by the Norwegian Mission to the UN on January 10<sup>th</sup> (participants included EC, CIDA, Iceland, Sweden, Switzerland, UK and USAID). Donors expressed satisfaction with progress in the Commission's work, particularly with regard to the National Consultation processes. They encouraged further diversity in the composition of the WGs. They referred to the relevance of the human rights agenda vis-à-vis legal empowerment. Donors also suggested that the outputs of the Commission be institutionalized through bilateral, IFI's and multilateral organizations, rather than creating additional structures for the advancement of the Legal Empowerment agenda.

## **6. Board of Advisors**

Board of advisor members presented suggestions on how they wish to contribute to the Commission's work. Overall, members committed to provide the names (and staff time, where relevant) of experts, as well as studies, funding, access to pertinent networks, and advocacy support. The Secretariat will be in touch with the different Board of Advisors to make sure that their activities are integrated into the work plan. A list of detailed suggestions and activities can be found in the annex.

## **7. Cross-cutting Issues**

### **7.1 Roadmap for Integration of Gender Equality Concerns**

There was substantial commentary on the roadmap for integration of gender equality. The Secretariat welcomed comments on the strategy, and will work with UN and other agencies to amend the paper. However, the paper was not intended to present a strategy for legal empowerment of women. Instead, it presents a strategy on how gender issues will be integrated into the various work streams of the Commission.

### **7.2 Roadmap for Integration of Indigenous Peoples' Concerns**

There was substantial commentary on the roadmap for integration of indigenous peoples' concerns. The Secretariat welcomed comments on the strategy, and will work with UN and other agencies to amend the paper. However, the paper was not intended to present a strategy for legal empowerment of indigenous peoples. Instead, it presents a strategy on how indigenous peoples' issues will be integrated into the various work streams of the Commission.

### **7.3 Towards an Economic Rationale for Legal Empowerment**

At the second Commission meeting in June 2006, members agreed that the Commission's work should be grounded in an economic rationale that would provide a theoretical framework and empirical basis for the final recommendations and report. In response, the Secretariat invited Nobel Laureate Douglass North to present his theory on "The Integration of Political and Economic Systems: Interaction and Effects on Economic Development" at a lunch session during the meeting, and distributed the related research agenda to Commission members. The research agenda is grounded in World Bank research, including country-level case studies and econometric studies. The Secretariat is continuing to explore opportunities to create links between the both the North/World Bank research agenda, and other relevant economic research, and the work of the Commission. The purpose is to ensure that the Commission's work is informed by current relevant research.

## **8. End game scenario and Work plans**

### **8.1 Final Narrative Report**

- The Commission agreed that the main outcome of its work will be a simple and compelling narrative. This will describe the plight of the more than 3 billion people who live and work in the informal economy, and highlight the opportunity to empower the poor with legal, enforceable rights which will allow them to move out of poverty. The narrative should be supported by evidence from the Working Groups and the National Consultation processes.
- The narrative will seek an integration between market and human rights based approaches, among others, to legal empowerment. Examples will be drawn from countries such as India in which this integration is being realized.
- The Commission will collect evidence from a wide range of global institutions. The narrative will identify some of the causes of previous efforts to reform legal and property systems, and elaborate on how legal, enforceable property and other rights will allow the poor to effectively participate in markets.
- Some Commission members suggest that the report should address the poor directly, and not focus only on institutions and governments. There is also a question as to what level of poverty will be addressed – pavement dwellers with no assets at all, those who have assets but no access to credit or public services (i.e., those who have something and those who have nothing).
- A draft of this narrative report will be submitted to the UN Secretary General as a basis for a possible international Convention on Legal Empowerment.
- A draft of this narrative report will be prepared for consideration by the fourth meeting of the Commission in June 2007. This will be preceded by a draft outline

of the proposed narrative report, which will be circulated to Commission members in spring 2007.

## **8.2 Work Plans**

The meeting endorsed the Commission's work plans for 2007 and 2008, subject to appropriate revisions to be made by the Secretariat based on the guidance provided by the meeting on the various agenda items above. The Secretariat has drawn up a to-do list of such actions and will integrate these into the work plans as presented:

Commission members agreed that all Working Group reports need to be completed by November, 2007. The meeting confirmed the importance of extending the life of the Commission to December 2008, provided resources can be mobilized. Failing this, the Commission will have to complete its work in June 2008, with the final report presented to its January 2008 meeting.

## **9. Date of Next Meeting**

After consultations with the Co-Chairs, it has been agreed that the Fourth Meeting of the Commission be held on 11<sup>th</sup> – 13<sup>th</sup> July, 2007.