



REPORT ON THE NATIONAL CONSULTATION FOR EGYPT

ON

LEGAL EMPOWERMENT OF THE POOR

THE RULE OF LAW, REAL ESTATE PROPERTY, LABOR AND ESTABLISHING BUSINESSES

INTRODUCTION

The Egyptian Center for Economic Studies (ECES), the Social Fund for Development (SFD) and the United Nations Development Program (UNDP) have recently organized a joint conference entitled the "Legal Empowerment of the Poor in Egypt." The purpose of the conference was to present and discuss the findings of four research papers prepared by a group of experts within the framework of the international project of the United Nations High-Level Commission on Legal Empowerment of the Poor (HLCLEP). These research findings were previously discussed at focus group meetings held by ECES that brought together specialized professionals, civil society organizations, academics, representatives of the banking system as well as several government officials. The purpose of these studies and discussions thereof is to establish a national dialogue on the link between exclusion, poverty and the law. The studies also attempt to contribute to ongoing efforts aimed at empowering the poor in the areas of labor, establishing businesses, real estate property rights and access to the rule of law. In addition to the opening session, the conference comprised two sessions, each discussing two research papers, as well as a closing session.

In the introductory remarks, ECES Chairman Mohamed Taymour said that the conference is timely as it addresses issues of current concern to Egypt. He said that the poor still do not feel the results of positive economic developments that have taken place recently, hence it is essential to think of ways to empower the poor so as to feel the fruits of such developments. He also stressed the importance of providing viable recommendations and legislations.

Executive Director Hanaa Kheir-El-Din spoke next saying that the government has protected the poor and low-income groups over the past fifty years through subsidizing goods and services, and guaranteeing employment for university and secondary school graduates. This approach resulted in extending subsidies to those who do not deserve to be subsidized, distorting relative prices and increasing the subsidy burden on the state budget. This created inflationary pressures that negatively affected the poor and low-income groups. In light of this vicious circle that hinders growth and sustainable development, it is time to adopt inclusive development in order to achieve growth and equitable distribution and consequently include the poor. This requires that the state focuses on reducing poverty by including the poor in its development policies and plans as was the case with several countries in Asia, Eastern Europe and Latin America that adopted this approach and achieved salient results in terms of sustainable growth and equity. Prof. Kheir-El-Din also stressed the importance of government commitment to adopting the concept of legal empowerment of the poor.

UNDP-Egypt Country Director Mounir Tabet pointed out the growing gap between the haves and the have-nots, and to the increase of absolute poverty in Egypt during 2000-2005. He noted that it is very important for all academicians, practitioners and decision makers to realize that legal barriers prevent the poor from escaping poverty and staying out of it. He asserted the importance of finding policy remedies so as not to exclude the poor from the economic benefits of growth, especially that the majority of these vulnerable groups are significant contributors to the society and the economy, and that they possess significant capital. This capital can be rendered more productive once these groups are legally empowered. In light of the interplay between law, poverty and development worldwide, the commission selected four areas for closer examination: Access to judiciary and the rule of law, and rights to real estate property, to labor and to establishing businesses. Both the High-level Commission on Legal Empowerment of the Poor (HLCLEP) and UNDP-Egypt believe that in order to release the productive potentials of the poor, it is essential to make the necessary changes in national laws, law-making and law-enforcement.

The real beneficiaries of these studies and consultations will eventually be the poor in Egypt, provided that these studies receive positive response from decision-makers to the extent that they get translated into concrete programs.

In his address to the National Consultation, HLCLEP Executive Director Naresh Singh asserted that when it comes to legal empowerment of the poor, it is important to recognize that the focus should be on changing power relations and that legal reforms are only a means

to this end. As for evaluating the results of the legal empowerment process, at the impact level there must be a reduction in poverty. At the outcome level, the poor should have greater control over their lives through increased protection and opportunities. Finally, at the output level we would expect legal and institutional reforms. Mr. Singh stated that the four thematic areas under study are integrally related to the livelihood of the poor. The Secretariat has initiated consultations in countries across Africa, Asia, Latin America, MENA and CIS to capture local experiences and build awareness of the legal empowerment agenda as a basis for action at the national level. The aim of these consultations is not only to understand the nature and dimensions of legal exclusion, but also to promote interaction between all stakeholders and foster national/regional platforms for action. Mr. Singh shed light on legal empowerment and its process in terms of mobilization, articulation, distribution and confirmation.

Concluding the introductory remarks, the Social Fund for Development (SFD) General Secretary Hany Seif Al-Nasr said that the SFD sponsored the conference because it believes in the importance of its goals. The conference tackles a social and humanitarian subject that has never been addressed previously with such intensity or scientific approach. The subject of the conference comes in line with SFD objectives and strategies, which aim to improve the living standards of the poor and the marginalized in Egypt.

The SFD General Secretary said that the Fund has injected more than LE 10.5 billions over the past ten years to meet these objectives. To reach the target groups, the SFD uses several tools and policies. These include a poverty map, the human development report, creating a permanent system that measures the impact of projects implemented in poor regions, and employing public participation as a means to identifying needs, while focusing financial resources to implement integrated activities in certain regions under the "inclusive local development" approach. Mr. Seif Al-Nasr also highlighted the main activity areas of the SFD, considered a key social safety net in Egypt. He also pointed out the importance of micro-finance as a principal means of fighting poverty, particularly for the poor who are economically active.

OPENING SESSION

The Ministers of Social Solidarity, Economic Development, Manpower and Immigration, Finance, Local Development, and Justice were invited to attend the conference sessions. The Minister of Social Solidarity and Minister of State for Economic Development honored the

invitation. This session was chaired by Medhat Hassanein, former minister of finance and member of the HLCLEP.

The Minister of Social Solidarity Aly Moselhy began his speech stating the necessity of protecting the poor and the marginalized as well as providing basic services to them before legally empowering them in the areas of access to judiciary and the rule of law, and rights to real estate property, to labor and to establishing businesses. Absent such protection, the number of citizens living below the poverty line would increase. The Minister called for reforming the concept of integrated social policies, and for targeting the poor both within a community framework and from a development perspective. He pointed out the necessity of developing accurate and detailed maps of the poor, their needs and patterns of life, which differ among governorates. Minister Moselhy also noted the several government programs designed to meet different needs. He said that the Ministry of Social Solidarity has identified the most-deserving categories in Al-Sharqeya and Assiut as well as the characteristics of households in these governorates. He added that by end of December 2008, the Ministry would complete its survey of all governorates so as to identify their needs and include them in the next plan. He also called for reducing taxes levied on the poor, noting in this regard that the poor should be treated as small economic entities rather than large enterprises.

The Minister of State for Economic Development Othman Mohamed Othman said that the Egyptian government has overcome its long-standing hesitation and diffidence when addressing poverty issues. He added that the government regards poverty as a socio-economic issue that must be addressed not only from a humanitarian perspective but also from a developmental one. The responsibility of addressing such issue lies on the shoulders of both the community and the government. Othman added that there are many challenges facing attempts aimed at achieving development and poverty alleviation. Such challenges include high unemployment rates among the educated, poor productivity of the informal sector, resistance to change as well as lack of mechanisms to assess the impact of economic policies and measures. He foresees the percentage of poor households to decrease to 11 percent by 2011/2012, noting that the ministry is addressing the poverty issue through two approaches. Firstly, geographic targeting through a poverty map that shows the thousand poorest villages (the government is currently addressing the hundred poorest villages). Secondly, joining forces with the various other social solidarity programs. The Minister further stressed that growth is the gateway to tackling poverty. Annual growth that exceeds 7 percent and is

coupled with increased employment is essential, or else the efforts of different ministries will fail to meet the target of alleviating poverty in Egypt.

Finally, session discussions stressed that the poor in Egypt lack legal and political empowerment and voice. Also, corruption in all its forms has exacerbated poverty since the poor are the ones who ultimately pay the price. High inflation rates represent one of the principal causes of poverty. The prevailing investment pattern does not create enough work opportunities, which deepens poverty.

SESSION I

This Session was chaired by Mounir Abdel Nour, ECES Board Member and Secretary General of the Wafd Party. Counselor Ashraf Shokry presented the paper on "Access to the Rule of Law" on behalf of Counselor Mohamed Al-Dakroury and Dr. Khaled Serry, while Dr. Mostafa Madbouly presented the other research paper dealing with access to real estate property rights. Participants comprised a group of experts including legal experts, economists, academics, journalists and civil society organizations.

THE FIRST PAPER: ACCESS TO JUDICIARY AND THE RULE OF LAW

The purpose of this paper is to examine means of empowering the poor in the area of access to judiciary and the rule of law. It discusses key barriers that prevent the poor from exercising their litigation rights, and offers recommendations for legal empowerment of the poor in this regard. One of the key findings of the study is that the well-off also face the same barriers that prevent the poor from accessing the rule of law. However, the impact of such barriers on the poor is worse. Further, the study pointed out that informal labor faces more barriers to litigation than formal labor.

Importance of Legal Empowerment of the Poor

The discussions emphasized the importance of legal empowerment of the poor in the legislation in Egypt. Access to the rule of law is a fundamental right of the poor. Therefore, the culture related to the right of the poor to litigation as dictated by the constitution should be reconsidered. Poverty concepts and definition, and poverty alleviation policies adopted by international organizations should be reassessed. Egypt should alleviate poverty before discussing economic and legal empowerment of the poor. Some suggested establishing an

agency for protecting the poor along the lines of the consumer protection agency. Others called for improving forms of civil and popular justice to assist the poor.

Role of Civil Society

Legal empowerment of the poor is a difficult issue that the government cannot undertake by itself. The government, however, can support legal associations that volunteer to defend the poor; particularly that procedures of proving ownership are costly for the poor who in most cases cannot afford medication, let alone the cost of registering or filing a case to prove ownership.

In light of the high illiteracy rates among the Egyptian population, which may be up to 29 percent, the ebbing role of ethics and popular justice, the decline of citizens' trust in the authorities and fear of resorting to police stations or courts to exercise their rights, civil society can play an important role as a mediator between the poor and litigation institutions.

Litigation Rights of Civil Servants

The participants raised the issue of the right of civil servants to collective negotiation and litigation. Although the number of civil servants amounts to 6.5 million employees, they cannot file a joint lawsuit for the same subject of litigation and hence have to file separate lawsuits, increasing the cost of litigation. Despite the existence of several international agreements granting civil servants this right, these agreements are not binding for Egypt because it is not a signatory state. On the other hand, participants also raised the issues of the inability to file a case against a public employee without the prior consent of the minister with jurisdiction; and the inability of labor union committees to file lawsuits against factory owners without the prior consent of the general committee. Additionally, the poor cannot access judiciary employment due to the prerequisite of social appropriateness, which amounts to confining judiciary employment to the non-poor.

Training of Judges and Lawyers

The discussions addressed several issues related to training and qualifying judges, and the extent to which judges are distracted from their work. For example, the secondment of judges affects their performance and efficiency. Moreover, participants raised the issue of the increasing numbers of law graduates, creating a phenomenon of roving lawyers, which negatively impacts the litigation process.

Official Gazette and Expanding Awareness

Discussions pointed out that many are unaware of the Official Gazette in which rulings and regulations are published. Many people are therefore unaware of the various regulations that affect their daily lives. Hence, it is important to enhance individuals' awareness of their rights in general as well as their litigation rights in particular.

Litigation Fees

The discussions addressed high litigation fees. Citizens have to pay fees that go to the judges' services fund. In many cases, these fees even exceed the fees of the lawyer. High fees also include those required for obtaining the lawsuit documents. Although the availability of legal assistance committees at the different courts attempting to exempt the poor from the litigation fees reduces such fees, the role of such committees needs to be activated. Additionally, many litigants are unaware of the existence of these committees.

Litigation Procedures

The discussions addressed litigation procedures and implementation of verdicts. Emphasis was placed on the necessity of improving procedures. Long procedures, too many dispute settlement committees and many erroneous verdicts have complicated the litigation procedures, leading some—particularly the poor—to avoid them. Moreover, issuing verdicts without having the ability to implement them causes such verdicts to lose their credibility. Also, the issue of negative practices by the police, particularly with the poor, was raised. The difficulty of interpreting or implementing legal texts represents a key impediment that complicates litigation in general, and for the poor in particular. On the other hand, participants praised the upgrade of family courts, from which the poor are the number-one beneficiary, as well as improving district courts, noting that introducing a judicial prosecution system is currently under study.

What is the Definition of the poor?

Part of the discussions focused on defining the poor and their characteristics. There should be a definition of the poor who need to be empowered of their legal rights. Support can be extended by exempting the poor from fees or by activating the role of legal assistance committees. The range of assistance needed for the poor should also be identified. It is worth noting that employment of the poor in the informal sector is considered one of the most important barriers affecting their rights; because this category does not possess official documents that enable them to exercise their right to litigate and prove their rights.

THE SECOND PAPER: REAL ESTATE PROPERTY RIGHTS

The second paper focuses on real-estate property rights in general and those rights of the poor in particular. The paper comprises two parts, the first addresses laws related to proving and registering ownership as well as the relevant problems, particularly for the poor. The second part provides key recommendations regarding property rights of the poor. There are two sets of recommendations; the first covers means of increasing the efficiency of ownership registration, while the second addresses empowerment of the poor in slum areas of their real estate rights.

The Poor's Right to Empowerment

Participants raised the issue of the inability of some people to object to the decisions to displace residents, questioning whether it is possible to discuss empowerment of the poor under such circumstances. In the past decades, there were cases of displacing Egyptians (e.g., in Nubia) without adequate compensation or prior consultation. Hence, it is important to recognize the right of all to consultation regarding their destiny and place of residence before discussing the means of legal empowerment.

Role of Legislation

There was consensus among conference attendees that several legislations should be changed or amended in order to increase the ability of the poor to gain property rights, and prove and register these rights. These legislations include real-estate tax and mortgage laws. Real-estate financing plays an important role as a base for empowerment of the poor in terms of property rights. Banks play an important role in real-estate financing, thus affecting the ability of the poor to gain ownership and prove it. Empowerment of the poor should not be confined to the means of real-estate registration but extend to other components of the market economy that enable the poor to obtain their rights.

Registration Fees and Procedures

The reduction of registration fees from 12 to 3 percent, and finally to a maximum of LE 2,000, has encouraged owners to register their property. Efforts are currently underway to implement the one-window system and automate and streamline the real estate registry, specially as related to inheritance.

Respect for the Law

Conference participants asserted that empowerment of the poor should be preceded by emphasizing the sovereignty and respect of the law as well as ensuring that all are equal before the law. Participants also stressed that legal empowerment is important not only for the poor but also for the community as a whole.

Social Dimension of the Real-Estate Issue

The issue of providing housing for the disabled who account for approximately 11 percent of the total population was raised. Reference was made to the recent trend of selling land by pure investment decisions without taking the social dimension of land ownership into account. Although the government has allocated 70 percent of total land offered for sale to the low- and medium- income groups over the past three years, there are still distortions in the programs that provide subsidized housing. For example, beneficiaries of subsidized housing units usually tend to sell these units unofficially to avoid the conditions restraining them from such sale. Consequently, the informal real-estate sector expanded. Several solutions are under study, including allowing build-for-rent programs, and banks' evaluation of those who apply to purchase such housing units.

SESSION II

Abdel Aziz Hegazy, Former Prime Minister and Chairman of the General Federation of Civil Society Organizations moderated this session, which included two papers. These papers dealt successively with "Legal Empowerment of the Poor: Labor Rights," authored by ECES Deputy Executive Director and Lead Economist Naglaa El-Ehwany; and with "Empowerment of the Poor in Establishing Businesses," prepared by ECES Economist Amal Refaat. Participants included experts, legal experts, civil society organizations, syndicates, academics and journalists.

THE THIRD PAPER: LABOR RIGHTS

This paper discusses the relationship between the concept of legal empowerment of the poor in the area of labor, and that of decent work as defined by the International Labor Organization (ILO). It introduces the characteristics of the poor as well as their employment status in terms of unemployment and informal employment. In this regard, the paper

particularly focuses on the rural areas of Egypt, and on women and children. A significant part of the study is devoted to examining the means of empowering the poor labor in Egypt based on their employment status; i.e. whether unemployed, formally or informally employed. Political will is necessary to alleviate poverty and empower the poor, and all stakeholders should combine their efforts for this purpose. The study points out that the cost of not empowering the poor is much higher than that of empowering them.

The Role of Civil Society

Civil society could play an important and critical role in legal empowerment of the poor—individuals and households—in the area of labor. The discussions pointed out the role of civil society organizations in reaching out to remote and rural areas, and in restoring the productive rather than consumption pattern of the poor, noting the necessity of having statistics on empowerment of the poor. Moreover, emphasis was placed on the role of the Ministry of Communications and Information Technology (MCIT) and the Ministry of Social Solidarity, in cooperation with the Central Agency for Public Mobilization and Statistics (CAPMAS), in developing an information network and database for civil society organizations in Egypt. It is necessary to seek the assistance of international organizations to increase the efficiency of civil society organizations and develop an integrated system for managing them. Finally, the General Federation of Non-Governmental Organizations is seeking to establish a civil society organization for micro-financing.

Institutional and Legislative Framework

An efficient institutional and legislative framework needs to be put in place to govern the labor market in Egypt and the rights of workers. The unified labor law suffers from several shortcomings, which require intervention and reconsideration. These shortcomings include setting specific periods for employment contracts thus threatening the stability of workers. Additionally, labor negotiations and litigation procedures proceed very slowly and employers always fail to attend the sessions. Hence, in practice, provisions of the law are not enforced. Moreover, there is no adequate medical insurance nor effective social insurance. The system of providing legal protection to poor entrepreneurs must be reconsidered.

On the other hand, the issue of unemployment benefits was raised. Some participants called for establishing an unemployment benefit fund, pointing to the experience of countries in Latin America that adopt a system of social reinsurance; i.e. individuals pay a low social insurance contribution starting from the secondary education phase to retrieve such

contributions when needed in the form of unemployment benefits. Other countries allocate part of the collected taxes for this purpose. Additionally, the discussions addressed the minimum wage, which differs from one country to another worldwide. International experience indicates that setting a minimum wage and linking such wage to productivity increase the latter in the long run.

Investment and Employment

The discussions stressed the importance of investment policies for creating adequate job opportunities. Growth by itself would not create adequate opportunities, unless the employment content of growth is taken into account and increased investment is accompanied by directing its resources to labor-intensive sectors, while allocating a certain amount of investments to the poorest groups and regions.

Training

Participants emphasized the importance of providing efficient and effective training to workers in order to increase labor productivity, which would subsequently increase wages. Decent work requires elimination of reading, writing and skills illiteracy.

Privatization

The discussions pointed out the serious impact of selling public sector firms and privatization on the stability and rights of workers, stressing the importance of finding adequate solutions for laid-off workers.

The Disabled

Representatives of civil society organizations pointed out that there are approximately 7.5 million disabled who are employed in non-decent work as per the technical definition. Their requests for loans to start businesses tend to be rejected in spite of their ability and willingness to work.

Reforming the State Bureaucracy

Discussions pointed out that a system has already been put in place for reforming the state bureaucracy. Composed of ten axes, this system is to be implemented over the next five years. However, discussions highlighted concern about the irregularity of reform attempts, which would result in an unstable bureaucracy. The proposed state bureaucracy should be decentralized.

THE FOURTH PAPER: ESTABLISHING BUSINESSES

This paper sheds light on the informal sector in terms of size and problems faced by enterprises operating within that sector and the Egyptian government's attempts to solve these problems. The study addresses micro-finance and provides suggestions for encouraging entrepreneurs and protecting their rights within an appropriate environment.

Law 141/2004

Some of the privileges offered by the law to small and micro enterprises have not been implemented, particularly the stipulation that ministries and public authorities award these enterprises 10 percent of public procurement contracts and 10 percent of available land for investment in industrial, tourist, new communities and reclamation regions. Moreover, the law grants a 5-10 year tax exemption to small and micro enterprises that obtain loans from the SFD, and does not give the same treatment to enterprises that obtain loans from other institutions, which is unjustifiable.

Informal Economy

Participants pointed out the significance of the informal economy and its growth. The government cannot force those who operate in the informal sector to shift to the formal sector. Creating formalization incentives is more important, including social and medical insurance as well as solutions and proposals for protecting informal labor and encouraging them to join the formal sector.

Linkages

The discussions stressed the importance of establishing and supporting linkages between small and micro enterprises on one hand, and medium and large enterprises on the other, due to the importance of linkages for both sides. Reference was also made to complicated and costly business procedures faced by small investors compared to large investors, and to the high interest rates on loans for small enterprises, leading their owners to withdraw from the market.

National Strategy for Micro Enterprises

Some participants believed that no one knows the details of the recently announced strategy for developing the micro finance market in Egypt. There is also concern that implementation of the strategy would not be as required.

CONCLUDING REMARKS

ECES Executive Director Hanaa Kheir-El-Din stressed that everyone should realize the importance of legal empowerment of the poor as a concept and policies. To translate this concept into reality, the current development approach, which depends on growth while providing subsidy to the poor, should be replaced by an inclusive growth approach that empowers the poor. Policy commitment of the government towards empowering the poor is necessary, and the whole society should be mobilized to support legal empowerment of the poor.

Resident Coordinator of the United Nations Development Programme (UNDP) James Rawly renewed commitment of the UN development system to assist the government of Egypt in addressing the challenge of poverty. He announced that the UNDP has allocated funding from its global program to follow up activities aimed at helping the government address legal impediments to poverty reduction in a systematic manner.

Finally, Mr. Naresh Singh asserted that more studies are needed to explore the nature and mechanisms of living in the informal sector. Minister Moselhy pointed out the failure of any attempts for complete formalization and to the need to create a healthy environment and the relevant framework to encourage those working in the informal sector to formalize. He also emphasized the urgent need to remove all legal impediments that obstruct the poor from getting out of poverty.