

Legal Empowerment Quarterly

Edition Three

July 2007

Message from the Executive Director



Welcome to the third edition of the **Legal Empowerment Quarterly**. The newsletter highlights some of the activities that we and our partners have been involved in around the world.

This edition is going to print on the eve of the fourth meeting of the Commission, which will take place on July 11th -13th at the United Nations headquarters in New York.

From the first meeting held in January 2006, when the Commission agreed on the broad principles, concepts, and mandate for its work, until today, much has happened. Around the world, National Consultations and Working Groups have brought together experts, policymakers and representatives from civil society to engage in our work on **Legal Empowerment**, and the pace of activity has only accelerated in recent months.

We now have draft reports from all the working groups as well as the first draft of an overall narrative report of the Commission. These will be presented and discussed at the upcoming fourth meeting which promises to be the most substantive discussion yet on the ideas that the Commission is likely to share with the world.

While intensive debates on these issues continue, there is a general air of excitement around the possible impact of the Commission's work. A summary of the outcomes of the meeting will be made public two to three weeks afterwards. We will then enter the next phase of our work leading to the final meeting of the Commission.

Warm Regards,
Naresh Singh *Executive Director*



India's municipal laws make it illegal to vend in the streets without a license. But due to red tape, less than one percent of vendors operate legally. The rest are vulnerable to bribes, beatings and extortion. **Legal Empowerment's** newest edition to the *Market Forces* film series follows Madhu Kishwar of Manushi (left) and the transition of the Sewa Nagar Model Market in New Delhi. Versions can be viewed in English, Spanish, French and Arabic at www.undp.org/legalempowerment and at <http://www.youtube.com/watch?v=AB62ltu37eg>.

Opening Doors To Civil Society

The **Legal Empowerment** secretariat is strengthening efforts to reach out to civil society.

At the CIVICUS World Assembly in Glasgow, Scotland (May 23-27), Commissioner Hilde Johnson, Board of Advisor member Kumi Naidoo and partner organization BRAC represented **Legal Empowerment** and hosted two workshops which drew civil society participants from around the world.

The workshops focused on the theme of committing governments to economic and social inclusion. Sandra Kabir, UK Executive Director of BRAC and Cate Ambrose, Chief of Advocacy for **Legal Empowerment**, discussed the relationship between microfinance programs

supported by BRAC, and the approach of **Legal Empowerment**. Sandra Kabir said: "Microfinance is very effective at helping people survive as micro-entrepreneurs, but it is much more difficult to reach the next level of business, where people can become more independent and move out of poverty."

Kumi Naidoo, CEO of CIVICUS, has authored an editorial highlighting the work of **Legal Empowerment** which will appear in the electronic newsletter e-CIVICUS in early July. That editorial, and an article in *TIME* magazine, will launch an interactive campaign for civil society representatives to contribute ideas through a new **Legal Empowerment** network.

Towards Consensus

A Look Inside the Working Groups

“Name”, “address” and “profession” are the three most common forms of identification. But they are out of reach for the majority of the world’s poor. Invisible, ignored and disenfranchised, the poor – many of them women and indigenous groups – cannot prove their own existence.

This is the problem that a broad range of experts and practitioners from around the globe have come together to address in the five Legal Empowerment Working Groups. Together with representatives from civil society, they are seeking examples of policies and programs that have contributed to the legal, economic and social empowerment of poor and marginalized groups, so that the poor have the basic rights opportunities that can only be gained with a legal identity.

Legal identity is one of the key issues for the Access to Justice Working Group. Birth registration is often the first barrier to establishing legal identity – UNICEF estimates that every year 48 million children are not registered at birth. Securing a legal identity is difficult because of weaknesses in the management of birth registries, costly and time-consuming procedures needed to register, and other obstacles. A survey of women in Latin America revealed that approximately 10 percent of women did

Addressing the gaps in states’ identity registration systems is a focus of the Access to Justice Working Group, and included in the scope of work for the other groups: Property Rights, Labor Rights, Legal Mechanisms to Empower Informal Businesses and Road Maps for Implementation of Reforms.

“People are beginning to look more and more at demand-led anti-poverty programs,” said **Lalanath de Silva**, **World Resources Institute** advisor and member of Working Group on Implementation. “You have to start with what is most important to the poor and how do we supply what they demand. So you start at the beginning. You have to register your birth and there are many obstacles. And you go from there.”

Another problem for people who have no legal identity is the lack of a legal address. One-third of the world’s four billion poor live in slums and settlements not recognized by governments, without an address and basic services like water or electricity. Without legally recognized property rights for their homes, these slum dwellers live in constant threat of eviction by government officials, private developers or interest groups.

“Prosperity occurs when property rights systems protect both property and fair access to it. This two-fold concept is implied at the core of property rights as human rights,” said **Francis Cheneval** of **University of Zurich** and leading expert of the Working Group on Property Rights. The Group is chaired by Ashraf Ghani, former Minister of Finance in Afghanistan.

“The rules of the game must be laid out and known to all players”

Banashree Banerjee, urban planner participating in the Working Group on Property Rights.

“A legal identity is the keystone to legal empowerment,” said **Matthew Stephenson**, **Harvard professor** and leading expert of the Legal Empowerment Working Group on Access to Justice. “With it, you can be immunized, go to university, own property and an address, vote, work legally, open a bank account, bring a case to court –the state recognizes that you exist.”

not register their children because the local registration office lacked the proper stationery.

Lloyd Axworthy, former **Foreign Minister of Canada** and the Working Group’s chair said: “I was in Peru in 2006 to oversee the presidential vote when President Alejandro Toledo told me that there were a million Peruvians who don’t ‘exist’.”

“On the operational level, it leads to a general challenge that we have to address. People owning property often do not have the same interests as people striving to acquire property... Some measures that are supposed to protect the poor at the same time risk breaking the market dynamics they need to add value to their assets. The great challenge is to design a property rights regime that

protects the poor but not poverty as such,” says Cheneval.

“The most affected properties are those that are traditionally held collectively by rural communities,” said **Liz Alden Wily, an independent policy and practice land tenure advisor**. “Should all governments in Sub-Saharan Africa recognize traditional rights as private property rights, rural Africans would gain legal ownership to no less than one billion hectares – a substantial asset and one which is becoming more and more valuable.”

Clotilde Medagan, President of the High Court of Benin and member of the Working Group on Access to Justice, described the injustice of some traditional laws in her home country, which do not for example allow girls to inherit land.

UN-Habitat cites that nearly one out of every four countries in the developing world has laws with provisions that prevent women from owning land and taking mortgages in their own names. Women increasingly face forcible eviction from their homes and land by family members, traditional authorities or neighbors.

Legal Empowerment recently highlighted the story of **Maryam Tusabe** and a neighbor who invaded her land in the Kamapala district of Uganda. (*Read Maryam’s full story at <http://www.undp.org/legalempowerment/challenge/stories.html>*).

Maryam is fighting back with the help of a local paralegal program, a practical tool which is being studied by the Working Group on Access to Justice. Working Group contributor **Vivek Maru co-founder of Timap for Justice Initiative in Sierra Leone** estimates that paralegals could help every person in Sierra Leone for just 18 cents per client.

The billions of people who work in the shadow economy – many selling goods and services in the streets, or using their homes as workshops – represent yet

another facet of legal exclusion.

The Working Groups on Labor Rights and Legal Mechanisms to Empower Informal Businesses are looking at ways to expand opportunities for micro-enterprises, while retaining a high standard of safeguards for employees. **Allan Larsson** and **Medhat Hassanein, former Ministers of Finance in Sweden and Egypt**, respectively, chair the Working Groups.

In Lima, Peru, to formally establish a one-person garment shop takes 289 days and costs USD \$1,231 – more than 30 times the monthly minimum wage. In Latin America 60 percent of the labor force is employed informally, with similar figures in Africa and parts of Asia.

engagement that legitimize demand-making. The rules of the game must be laid out and known to all players,” Banerjee concluded.

Unfortunately, too many have no choice but to live in legal exclusion and they face corruption and bribery on a daily basis. Transparency International revealed that an estimated USD \$6.26 million was paid in bribes to the lower judiciary in India during 2006. These realities create the context for the Working Groups.

“In most countries, there are both formal and informal sectors, and one cannot replace the other” said **Bibek Debroy**, leading expert of the Working Group on Implementation. “Our approach is to

“A legal identity is the keystone to legal empowerment”

Matthew Stephenson, Harvard professor

“Economic growth, poverty reduction and empowerment through labor rights are mutually reinforcing,” wrote Larsson. “Empowerment through labor rights helps include the working poor in economic processes and improves the terms of trade in which their assets are employed. This provides an effective transmission belt to ensure that economic development and growth can fight poverty.”

“Fighting poverty is about addressing the lack of capacity of a large number of citizens to make demands on the state because of their multiple handicaps such as unequal power relations. I see this in my work with the urban poor in Indian cities,” said **Banashree Banerjee, an urban planner** who participates in the Working Group on Property Rights.

“Awareness and knowledge can create capacity, but it won’t be effective unless there are clearly laid out process of

recognize the informal and develop country, region and culture specific approaches for the informal to up-scale and integrate.”

General Naqvi of Pakistan, Commission member and member of the Working Group on Empowering Informal Businesses said: “The work of the Commission is and needs to be pluralistic. Then the leadership in a country like mine which differs dramatically from New Zealand, Jordan or Malaysia, can pick up those things that are consistent with the social and political culture of my country and use them.”

To read more interviews with Working Group members and access photos, log on to <http://www.undp.org/legalempowerment/what/groups.html>.

Events

LE in Spain



Commissioner Mary Robinson and Andre Newberg, Board of Directors member, American Association for the International Commission of Jurists.

Mary Robinson delivered an address on “Property Rights as Human Rights” in Madrid in May at the Thirtieth Annual Colloquium on the “The Role of Government Departments in the Formulation and Implementation of Human Rights Considerations in Foreign Policy” convened by the American Association for the International Commission of Jurists (AAICJ) on the invitation of the Spanish Foreign Minister.

Spain recently became a donor to the Commission on **Legal Empowerment of the Poor**. Dr. Robinson, who is a Commissioner of both **Legal Empowerment** and the ICJ, authored an editorial in the Spanish daily *El Pais* to coincide with the speaking event. Full version in Spanish can be found at www.undp.org/legalempowerment.

Building Trust

Legal Empowerment took part in the 7th Global Forum on Reinventing Government: Building Trust in Government in Vienna, Austria, from June 26-28. The Commission was represented by Executive Director Naresh Singh, Commissioners Lakhdar Brahimi, Fernando Cardoso and Mary Robinson, and Board of Advisor members Anna Tibaijuka, Kumi Naidoo and Sheela Patel. Dr. Singh spoke in a workshop on the theme of “Building Trust through Civic Engagement.”

Co-Chairs Speak at Georgetown



Co-Chairs Hernando de Soto and Madeleine Albright take audience questions during a discussion in Washington, D.C.

Co-Chairs Madeleine Albright and Hernando de Soto spoke on “Building Stable Societies and Economic Democracy” on April 16, at Georgetown University in Washington DC. The discussion focused on globalization and how to open opportunities for marginalized groups. The co-chairs then answered questions from an audience of more than 500 students and faculty. Topics included the pending US-Peru Free Trade Agreement, power struggles with elites, microfinance and collective versus private land ownership.

“The old titling systems do not work,” said Co-Chair de Soto. “Most people will accept a piece of paper, but will not come into the law. In Lima, we have an average of 20 titles per home. The issue is whether we are going to give the poor tools to help themselves

and to really engage in the legal system and move ahead, or are they going to do it through other means. I think there is a very strong connection between development and empowering people, and getting people to be wealthy.”

Co-Chair Albright expounded on the controversial topic of collective versus private property rights pointing out that the relationship between legal empowerment and stable societies is much broader. In a modern society you need a functioning state to provide infrastructure to build streets and sewers, and that comes down to knowing who owns what property and to paying property taxes. “The creation of a legal system allows a modern state to function for the good of its people.”

A video of the event will be posted on the **Legal Empowerment** website.

Commission on **Legal Empowerment of the Poor**

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