

**National Consultation for the Legal Empowerment
of the Poor in Ethiopia**

Proceeding Report

**March 14, 2007
Imperial Hotel
Addis Ababa,
Ethiopia**

Introduction

The National Consultation Workshop for the Legal Empowerment of the Poor was held on 14 March, 2007, at the Imperial Hotel, in Addis Ababa, Ethiopia. It was attended by government representatives, civil society organizations, international donors, academics and journalists.

The consultation consisted of plenary and discussion sessions. The plenary sessions were devoted to panel discussions that mainly aimed at giving overviews of the four thematic areas in the Ethiopian context, familiarizing and preparing participants for discussions. Following the plenary sessions, discussion sessions were used to generate more in-depth consultation of the issues and to generate recommendations and suggestions of participants.

This report summarizes the proceedings of the national consultation on the Legal Empowerment of the Poor in Ethiopia. The consultation focused on four themes of interest: Access to justice and Rule of Law; Labor Rights; Property Rights; and Entrepreneurship. Prior to the national consultation, four short background papers were prepared on the above themes. The thematic papers were distributed to selected government representatives, CSO leaders, academics, journalists, etc. Following this, focus group discussions were held and comments from different perspectives were collected and incorporated in the thematic papers. After the focus group discussions, a national consultation involving representatives from different sectors, civil society organizations, academics and journalists was organized and held. The purpose of the national consultation was mainly to brainstorm on the themes in detail, to identify challenges and problems associated with the empowerment of the poor both in rural and urban areas and to identify and examine possible strategies from participants representing different sectors of the country.

To make the consultation effective and to give participants ample time to read and come up with comments and questions, the draft thematic papers were made available through e-mails to all participants prior to the National Consultation meetings.

Discussion during the National Consultation focused on the following;

- Overview of the core mission of the Commission for the Legal Empowerment of the Poor
- Overview of access to justice and the rule of law in Ethiopia
- Labor rights in Ethiopia
- Overview of challenges in rural as well as urban areas with regard to property right issues in Ethiopia.
- Entrepreneurship – opportunities and challenges
- General challenges associated with the legal empowerment of the poor.
- The way forward.

Opening Session

The consultation was opened by Dr. Getachew Demeke, the Managing Director of Center for Development Consulting. Dr. Demeke drew the attention of participants by reminding participants of the core mission of the Commission for the Legal Empowerment of the Poor (CLEP). He explained the core mission of the CLEP as:

“To secure enforceable property and labor rights, with in an enabling environment that expands legal business opportunity and access to justice”.

Dr. Demeke gave a brief overview of the work of the commission to date and its future program of work. Following this, he thanked participants for attending the consultation and urged them to openly discuss their views and comments and gave the floor to Dr. Marit Kitaw and Dr. Costantinos Berhe, the panelists, to begin the second session.

Overview of Legal Empowerment of the Poor – Entrepreneurship and Labor Rights of the Poor

This session featured presentation by Dr. Marit Kitaw. Dr. Kitaw’s presentation focused on the two themes- entrepreneurship and labor rights in Ethiopia. With regard to labor rights, she explained the classification of informal sector in Ethiopia, the practicable strategy to achieve the decent work agenda objectives in the informal sector in Ethiopia and finally remarked the specific barriers faced in the informal sector in Ethiopia with particular attention on women entrepreneurs.

Dr. Kitaw underscored that inefficiency and ineffectiveness of the existing employment services coupled with the existence of insufficient social security coverage is what induces the poor to join the informal sector. Once in it, the fact that there is no linkage between the formal institutions and informal organizations in Ethiopia makes it difficult to channel from the informal sector to the formal sector.

The challenges for legal empowerment of the poor regarding the areas of entrepreneurship and labor rights identified by Dr. Kitaw include:

- the non-existence of conducive legal systems
- frail capacity of workers and employers organizations;
- non-existence of non-discriminating clause for various type of labor contracts;
- lack of tailored training programs that empower the poor.

She remarked the importance of promotion of micro-finance institutions to ensure security of employment; provision of different trainings targeting the informal sector; introducing a non-discriminating clause for various type of labor as well as provision of equal employment opportunities to persons with disabilities.

With regard to entrepreneurship, she underscored that the informal sector is an attractive means of livelihood with comparatively numerous benefits for the poor, she emphasized that incentives, which can direct the creativity of the informal sector to the formal one, such as access to land, premises and working space should be in place. Furthermore, bureaucratic red tape and other cumbersome regulations should be modified so as to

enable easy entry and exit from the formal sector. Simultaneously, socio-cultural constraints that hinder the poor from taking private initiatives should also be eliminated.

In conclusion, Dr. Kitaw noted even though its productivity and its share in gross value of production and value added is low, employment in the urban informal sector is usually higher than wage employment in the formal sector and pointed out that this should be considered seriously. Remarking that the investment code denies incentives for enterprises with small start up capitals discouraging the poor and that there exist problems associated with business licensing and regulations procedures, she emphasized that there is a need for amending the codes and the process of licensing and regulation.

Moreover, Dr. Kitaw added that weak labor regulations and lack of decent work environment as well as failure to enforce minimum wage laws in Ethiopia have contributed to poor factors in empowering the poor in the areas of entrepreneurship and labor rights.

Overview of Legal Empowerment of the Poor – Access to Justice and Property Rights

This session featured presentation by Dr. Costantinos Berhe. Dr. Costantinos drew the attention of participants by giving overview of access to justice and rule of law in Ethiopia. He started his presentation by posing the questions participants should bear in mind for the subsequent mainstreaming and discussion sessions and explained the existing problems in Ethiopia with respect to access to justice. He identified the scope of the problem and remarked some possible strategies for redressing the problems.

Following this, Dr. Costantinos presented property rights issues in Ethiopia. He presented overview of the challenges in rural and urban areas of Ethiopia with regard to property rights of the poor. In this consultation, particular attention was paid to property rights related to natural resources such as land, water, forest and urban property as security to tenure has been believed to contribute to eliminating chronic vulnerability and as an empowering factor for farmers which constitute the highest percentage of the poor.

Regarding the rights of the nations, nationalities and peoples, Dr. Costantinos reminded participants of Article 39 of the Constitution of the FDRE. Further, he also reminded them of Article 40 and underscored the right to ownership of rural and urban land, as well as of all natural resources is exclusively vested in the state and in the people of Ethiopia and land is a common property of the Nations, Nationalities and Peoples of Ethiopia and is not subject to be sold or other means of exchange.

On the other hand, Dr. Constantinos indicated that there seems to be lack of clarity regarding property rights, the question of whether land can be sold or exchanged in Ethiopia. This has resulted in discouragement of investors on properties and/or land as the continuity of their ownership and their rights to sell it has been questionable. Moreover, in rural areas, farmers make little or no effort to make improvements on their lands leading to degradation of farm and/or grazing lands. Farmers simply use the land

for a period of time and abandon it rather than making long-term investments since they feel that they have no clear sense of ownership of the land.

Dr. Costantinos identified the rules and institutional basis for the legal empowerment of the poor as 1. Political openness - distinctive forms of political thought, discourse and practice which underlie popularly elected and controlled government; 2. Political agency i.e. network of institutions and groups from civil society, legislature, executive, judiciary, media, donors, and NGOs that exert external influence; and 3. Ideology - rules of government, national and cultural values, modes of representation of specific interests and needs.

The fact that there is delay in the dispensation of justice and the inefficiency of institutional capacity in law enforcement in the justice system of Ethiopia are among the major factors that create inefficiencies in the system of law enforcement and in the administration of justice thereby hindering the promotion and protection of human and democratic rights. Though designed to bring about a fair and efficient system of justice, Dr. Costantinos accentuated that programs have not fully lived up to expectations and put shortage of adequately trained personnel as a factor.

Dr. Costantinos indicted that although the legal system is in place, access of the poor to the legal system is also limited due to other factors. Poverty is often associated with rural areas although there has been an increasing number of migration to urban areas. Courts and legal systems do not exist within close proximities of rural areas resulting in the poor being discouraged to engage with the legal system. The poor in most cases do not have knowledge of their legal rights and this is further worsened by the fact that courts are located in towns and/or cities that are not easily reached. The expenses incurred by the legal courts in addition to the financial efforts made to reach the courts results in the poor being discouraged to engage in legal systems.

In his conclusion, he underlined the crucial role building on community-level operations can play in enabling the poor to inform or influence systemic change in laws, policies, and state institutions rather than accepting it as it is. In further building a legal empowerment program, he emphasized that awareness should be created and that forums should be used where the poor can best access in particular situations; paralegal resources should be developed; the need and concerns of the disadvantaged should be prioritized; the government should be pressurized, by organizing the community or by forming a group, as much as there is a cooperation.

Summary of participants' Discussions

Following the overview presentation, the floor was opened to participants for questions and answers. Participants were engaged in lively and open discussions on the four thematic areas. The following are summary of discussions by participants.

- Challenges faced by the poor that hinder their entry to the legal system identified by participants included lack of awareness of the national laws and rights of the

people by citizens lack of capital and poor access to finance lack of credit facilities and saving services lack of linkage between the formal and informal sector. Lack of entrepreneurial skills inadequate enforcement of rules and regulation and corruption.

- Poverty is not a condition that involves only those living in the rural areas of Ethiopia. The issue of poverty is more prominent in the capital as well as the bigger towns of the country, as those that are faced with it in the rural areas are migrating to Addis Ababa and other large villages in order to look for personal alleviation from poverty.
- Although access to justice, labor rights, property rights and entrepreneurship are key factors to the alleviation of poverty in Ethiopia, empowerment of those working within government institutions is also an issue that should be addressed simultaneously. If those that are expected to apply the laws or oversee the implementation of policies are not satisfied by the working condition that they are in, then it would be pointless to try and address the points stated in the presentation as the process of bettering the current situation would not be as smooth.
- The problem with alleviating poverty in Ethiopia is like any other challenge faced by the country. It involves a whole lot of talk and less action because of the fact that everyone has his/her own definition of what poverty is, who falls under the poverty line, and what the main causes are. It is not just about identifying, but drawing out strategies to tackle the issues. Efforts to alleviate poverty should also pay closer attention to restoring the public as well as the private sector.
- Progress in the alleviation of poverty will not be possible unless all citizens, be it those living in urban or rural areas; working in the public or private sector, fully comprehend what their rights (labor or property) are and do not have access to justice to ensure the implementation of these rights. In fact, it is each citizens' right to know and fully understand their rights; and that this should be the first challenge to be tackled as it influences the manner in which things have been done in the country in the past as it will in the future. Efforts should look at the broader manner in which to address poverty as opposed to narrowing the agenda.

On Access to Justice

- It is difficult to legally empower the poor when it is clear that the judiciary is neither independent nor transparent. In order for citizens to know their rights they have to first be able to have access to the information and secondly be able to see it implemented properly to believe that they needed to know. The judiciary system itself has to be restored, so that people, especially the poor, who are unable to influence the system to their benefit, could have enough faith in it to actually bother using it.

- With the exception of towns or villages of some considerable size, courthouses of judicial offices are not prominent and in some cases are non-existent. There are many that do not have access to justice simply because they did not live within the proximity of any legal institution. It is difficult to legally empower the poor when the poor do not even have physical access to these judicial entities.
- Unless Ethiopians achieves a certain level of education, there is no way the poor could be expected to be informed or demand for information on certain matter, leave alone their judicial rights (whether labor and property rights based or otherwise), as they would not comprehend the level to which they could use their rightful privileges or the limitations that the law sets.

On Entrepreneurship

- Although there are many ways in which the informal business sector could actually be promoted into a formal one, it would be quite a feat to accomplish considering the bureaucracy as well as lack of credit faced by most who conduct business in the informal sector. The government should provide better information on how those businesses in the informal sector could be upgraded into the formal sector and should also ensure that the right system and environment be created for these businesses to come up. In order for it to do this, the government should approach those businesses running in the informal sector so as to encourage them to graduate to the formal sector.
- The government should also provide training programs to enable those business owners in the informal sector to better handle the transition that their business will in fact go through. This would also involve the introduction of the use of technology etc. Moreover, there need to be some form of tax alleviation as the current tax is excessive and the toll should be reduced for those entering the formal sector on the level of entrepreneur.
- Although Ethiopian entrepreneurs are required to deposit at least 1,083% of income per capita in a bank to obtain a business registration number and it moreover takes 690 days to enforce a contract; Ethiopia in relation to other Sub-Saharan African countries has relatively more conducive procedures for starting a business. For instance, costs to enforce a contract and costs to register a business are considerably lower than that of other Sub-Saharan countries. However, in the process of getting a business license, prospective business people had to approach various government officials, which are unqualified, don't want to take responsibility or accountability and are unresponsive. This, is very disconcerting to those interested in investing in a business and even more so to those trying to upgrade their businesses to the formal sector.
- The majority, low waged employees feel and believe that their employers have more rights than themselves. Moreover, due to the high rate of unemployment, people often feel obliged to take whatever hardships they face as they do not

believe that they are entitled to legal rights, unless in extreme cases of abuse. Moreover, due to the weak economic performance and the rapid population growth in Ethiopia, the number of unemployed people, especially in urban areas has also been increasing significantly. As a result, low wage earning workers tend to be desperate to keep their jobs. However, a level of protection for workers should be agreed at the time employment. This will not only enable the employee to have his or her labor right upheld, but will also promote employer responsibility.

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The following are recommendations made by participants for legally empowering the poor in Ethiopia.

- It is futile to expect workers both in the formal and informal sector, in urban as well as rural areas to actually work on implementing the law and to turn their rights into practical benefits while they have little or no knowledge of the existing laws. The existing labor legislations, laws and rights of the people should be publicized. Awareness should be created through trainings and through developing other curricula. Moreover, the capacity of organizations including NGOs and/or CBOs and micro-finance institutions that work with the poor should be strengthened. Making such organizations self-sustaining will result in sustainable benefits for the poor.
- People in the informal sector are characterized by poor entrepreneurial skills and as a result refuse to engage in profitable and in economically sustainable businesses fearing the risks that might be associated with it. They also refuse to use their property as collateral for fear that their business might not thrive. Even though there are various micro-finance institutions in Ethiopia, the lack of credit availability still remains one of the reasons people start up or stay in the informal sector. This is mainly due to the fact that formal banks in Ethiopia require collateral and sufficient asset in which the poor can not be involved; hence, the informal sector is the only best alternative for the poor as it provides credit and saving programmes that can allow the poor to participate. Operating informally denies them access to finance, markets, technology, etc. They are trapped in a vicious circle where they remain small, unproductive and poor. To effectively break this vicious circle, the entrepreneurial skill of the poor should be enhanced through trainings, access to finance and markets.

- The linkage between informal and formal firms in Ethiopia is very weak. This fact has made it difficult for those in the informal sector to channel their creativity and effort to the formal sector. A system should be created where there is cooperation among the small and large scale organizations in a sense that the larger companies should support in building the capacity of micro enterprises to ensure a smooth channeling to the formal sector.
- Considering the fact that women, the disabled, and youth are disadvantaged groups, the formal sector needs to be made affordable for the people to start up businesses.
- Although education is a major downside of the poor in the country, it is nevertheless the government's responsibility that their well-being and rights are upheld and respected. Therefore, the one thing that needs to be ensured is that those laws of the country be properly applied without financial prejudice or nonchalance to the consequences it might bring about.
- The fact that the system of justice in Ethiopia is featured by delays in the dispensation of justice, lack of institutional capacity in law enforcement, court and inefficient system of law enforcement and congestion has hindered the law enforcement as well as the administration of justice. Hence, reforms should be made to build the institutional capacity.
- As long as long term investment is concerned, undoubtedly secure property right to land is the best incentive to the owners to use their land in the most productive and competitive manner. As long as the poor in Ethiopia are concerned, in line with the above disincentives, lack of secure property rights to land also plays a big role in decelerating land related investments in many setting. When particularly related to the agricultural system, this disincentive affects productivity of the land both in the short and long run.
- The bureaucracy associated with business startup has become an obstacle for the legal empowerment of the poor. As a result, democratization of the state and legal empowerment of the poor are processes that should go simultaneously for effective results. In line with this, there should be judiciary and legislator checks and balances in a sense that the judiciary should monitor and ensure the proper implementation of the laws. On the other hand, the executive should not have any authority over the judiciary system.