

SUMMARY: “Legal Empowerment of the Poor and Eradication of Poverty”

64th Session of the General Assembly (2nd Committee) Special Event

Friday, 16 October 2009

1. At the request of the member states, United Nations Department of Economic and Social Affairs (UN-DESA) and the United Nations Development Programme (UNDP) organized a Special Event on “Legal Empowerment of the Poor and Eradication of Poverty”. The special event – held on 16 October 2009 at the Second Committee of the 64th session of the General Assembly – was aimed at generating greater awareness and understanding on legal empowerment of the poor among the member states of the United Nations.
2. Ms. Denise McQuade, Rapporteur of the Second Committee, chaired the event. The panelists were Mr. Thomas McInerney, Research, Policy & Strategic Initiatives Director at International Development Law Organization (IDLO), Prof. Lucie White, Lewis A. Horvitz Professor of Law at Harvard Law School and Dr. Hamid Rashid, Senior Adviser and Coordinator of Legal Empowerment of the Poor at UNDP. Mr. McInerney highlighted the work of IDLO in the field of legal empowerment while Prof. White discussed the interactions between property rights and legal empowerment of the poor. Dr. Rashid provided an overview of how legal empowerment supports larger development goals and how UNDP is implementing the agenda. In the interactive discussion following presentations by the panelists, 13 delegations took the floor to extend their support, provide comments and raise questions.
3. *Right to property.* Several delegations noted the critical importance of the right to property in the legal empowerment agenda, as underscored by Prof. White. She defined the right to property broadly, as a fundamental right to dignity, material security, social connection and citizenship. Prof. White highlighted that the right to property is a cluster of rights and anything can be a property right if positive law says so. The right to property can be disaggregated to mean the right to: basic shelter, security of tenure, right of decent housing, right to a home, and entitlement to sell, which are often fundamental to poor people’s lives and livelihood. **Venezuela** referenced agrarian reforms implemented in Latin America in the 1960s-80s and noted that these government programmes have failed to enable the poor to actual use the land.
4. *The varying needs of end-users.* Some delegations emphasized the need to keep in mind the needs of end-users, and the challenges they face, when implementing legal empowerment programmes. An IDLO study presented by Mr. McInerney found that 54% of people who used legal aid clinics in Bolivia did so for family matters, while only 3% used them for land law related issues. When **The Netherlands** asked whether such findings were typical, he concluded that more studies are needed in other regions to examine the factors more closely. Dr. Rashid noted that a study in Ukraine showed that 61% of demand for legal aid service related to land and property rights issues, illustrating the diversity of legal needs across countries. Dr. Rashid also noted that a disaggregation of the family cases in Bolivia might show that property or inheritance rights issues are prevalent. Mr. McInerney suggested that the basic need and concern for security as a possible reason that family law related matters dominated legal aid dockets in Bolivia. Prof. White’s research indicates that issues of primary security and of dignity are expressed together. People around the world that lack the dignity of economic and social rights, or were stripped of these rights, found this to be their most pressing need.

5. *Legal empowerment as a broad concept.* The **United States of America** expressed support for legal empowerment as a practical concept that complements the broader development agenda and transcends the North-South division that often dominates UN discourse. Furthermore, the US delegation welcomed the idea of the “Empowerment Gateway” as a global hub for legal empowerment knowledge, expertise and project support. **Ireland** and **Venezuela** noted that legal empowerment goes way beyond legal issues and that it is much broader. **The Philippines** and **Ireland** underscored the importance of improving the business environment, and **the Philippines** highlighted the need for addressing access to entrepreneurship through microfinance initiatives. **Egypt** noted that while some of the legal empowerment issues fall under the 2nd Committee’s purview, others fall under those of the 3rd and 6th Committees. Dr. Rashid stated legal empowerment is not only an end, but also a means and that legal empowerment could help individuals and communities address the challenges related to climate change and prevent over access to land and natural resources.
6. *Legal empowerment and poverty alleviation.* **Ghana** highlighted the linkages between legal empowerment and the MDGs while **Sweden** stressed the clear complementarities between poverty eradication, human rights, and legal empowerment. The representative of Sweden also noted the importance of legal identity for people to have access to basic services like education and health care, as well as inheritance, property and land rights. **The Philippines** considered legal empowerment as a long-term approach to address poverty alleviation because it targets the poor and marginalized who do not have the sophistication or capacity to integrate themselves in the formal economy. Prof. White stated that the challenge for UNDP is to approach legal empowerment in a way that links to poverty and inequality issues in both developed and developing countries. **Bangladesh** asked how legal empowerment approaches impact eradication of poverty. Prof. White provided three examples. First, at the ground level, if the poor have legal representation, they can expect to enjoy tenure security, which can, in turn, enhance material security. Second, legal empowerment has had a big impact on eliminating anti-poor features of health law in Ghana because the poor were able to participate in the process. Finally, legal empowerment builds people’s capacity to participate in political processes (e.g., involved in policies, sitting on committees, etc). Dr. Rashid responded that the Initiative on Legal Empowerment of the Poor is currently working with BRAC in Bangladesh, looking at their legal education programme, which trains women on their property rights, among others, to see how the programme impacts their lives and human development.
7. *Rural to urban migration.* **Ghana** stated that the legal empowerment framework presented a new way of looking at the poor, seeing them as potential contributors rather than only as nuisances. The representative of Ghana highlighted that the rural poor are increasingly migrating to cities because access to land is becoming more limited due to insecure land tenure systems and the new trend of large-scale land acquisitions. The representative argued that current government approaches are often more about alleviating the conditions of poverty and reducing the trend of rural-urban migration rather than empowering the poor. **The Philippines** mentioned that legal empowerment could play a role in both internal and international migration. Once squatters are decentralized and relocated away from the city, institutional systems must be put in place so that the poor can integrate themselves into society. The representative of The Philippines also highlighted the best practices established by the Philippines to deploy and protect migrant workers in the international context. Prof. White noted the role legal empowerment can play in addressing the needs of the rural poor by creating institutions in urban areas to support them, and empowering people to make use of those institutions.

8. *Legal empowerment and voice.* **The Philippines** and **The Netherlands** reiterated Prof. White's argument linking voice and democracy. The Philippines highlighted support for capacity-building modalities that strengthen the voice of the poor (e.g., enhanced right of suffrage, education, information and communication technology). **Portugal** noted the importance of national voice before seeking external support and pointed to not only the UNDP Initiative on Legal Empowerment of the Poor, but also the Optional Protocol for Economic and Social Rights as a means to give people voice. Dr. Rashid noted that the Initiative on Legal Empowerment of the Poor focuses on the poor's participation in decision-making processes that directly or indirectly affect their lives. For example, in the face of increasing commercial pressures on land, UNDP is designing projects that build communities' capacity to effectively negotiate land deals. **Venezuela** highlighted the importance of democratic participation, where citizens make decisions on legislation, health care, food security, and other similar programmes.
9. *Universal applicability of legal empowerment.* Many delegations recognized the universal appeal of the legal empowerment agenda. **Egypt**, while recognizing this universality, asked how legal empowerment can be implemented universally since UNDP only operates in developing countries. Dr. Rashid concurred that there is a universal appeal of the legal empowerment agenda and reminded that the Commission on Legal Empowerment of the Poor – which was comprised of 22 commissioners from both developed and the developing world – represented the diversity of thoughts and approaches and presented a universally acceptable framework for legal empowerment of the poor. The framework will help to meet the specific needs of different countries and develop innovative solutions, not just create new laws and regulations.
10. *Taking into account different legal contexts.* **Egypt** asked how do differences in legal systems in different countries come into play when implementing a blanket concept like legal empowerment. Mr. McInerney responded that the outcomes legal empowerment is trying to achieve, namely to help the poor protect themselves, may facilitate the identification of some commonalities that can be shared more broadly. Dr. Rashid responded that UNDP is by no means promoting a one-size-fits-all approach, and reiterated that programmes are implemented with local partners and take into account the heterogeneity of different local legal and administrative systems. UNDP, for example, is currently implementing a project to build the capacity of Family Courts and Dispute Settlement Offices in Egypt, working with paralegal services and pro bono lawyers to facilitate expedited resolution of case backlogs.
11. *Focus on domestic issues in the context of global crises.* **Egypt** asked why legal empowerment solely focuses on the domestic issues, especially at a time when there are a number of challenges – financial crisis and climate change – at the international level. Prof. White responded that in several ways this legal empowerment initiative does invoke the imperative of connection across borders (e.g., taking account of trends, parallel phenomena, multinational bodies, international organizations, international human rights instruments) and offers many ways for both cross learning and collaboration. Mr. McInerney noted that understanding global problems as seen from the poor's perspective is critical to avoid larger development debacles in the future. Dr. Rashid had alerted in his presentation to the fact that various LEP initiatives seek to promote and strengthen land rights, resulting in sustainable land management, thereby contribute to food security and help fight climate change.

12. *Legal Empowerment and Women's Empowerment.* **Sweden** noted that empowering women could lead to a significant reduction in poverty. **Liechtenstein** highlighted the link between legal empowerment, gender dimension, and the MDGs. The representative asked how the UN and member states can best promote the empowerment of women to address MDG #3 and how the UNDP Initiative on Legal Empowerment of the Poor takes this into account. Dr. Rashid responded that UNDP recognizes the gender dimension as one of the critical elements of empowerment efforts and that access to justice for women can have both curative and preventative angles. Legal empowerment programmes make sure women using formal and informal justice services get fair and equitable outcomes. For example, judgments from customary systems are often biased against women. In South Africa, UNDP is supporting an NGO that contests customary judgments not consistent with the Constitution and the Bill of Rights, making it costly for customary leaders to give a similar anti-poor and anti-women judgment next time. To prevent gender discrimination, empowerment programmes also look at the root causes of the violations.
13. *Legal Empowerment and Traditional Justice.* **Sweden** asked how could the UN and its member states can ensure that the poor and the large segments of the population that use traditional systems are not forgotten. **Ireland** asked how traditional justice systems might be used for legal empowerment. Mr. McInerney responded that UNDP has a major study underway on customary systems, which is due to be completed within the next year. Also, IDLO will be examining how to improve customary systems by injecting an approach that prevents forum shopping in and between traditional and formal justice systems and requires gender representatives.
14. *Legal Empowerment and Decent Work.* **Norway** noted the theoretical link between the agenda of decent work and legal empowerment because without having the legal tools to realize their rights, workers are not able to achieve decent work. The representative asked how these agendas are linked at the global and country levels. Dr. Rashid responded that there are strong partnerships with other organizations, including with FAO and ILO. UNDP is partnering with ILO in a number of countries to promote the decent work agenda. He also informed that UNDP is supporting the FAO initiative to develop a voluntary guideline on responsible governance of land tenure and natural resources. Prof. White noted that her research reflected a link between legal empowerment and decent work, namely that if people did not have security of tenure they were more vulnerable to violation of their rights to labor.
15. *The UN, member states, and the legal empowerment approach.* **Sweden** asked how could the UN and its member states work on the legal empowerment approach. Mr. McInerney responded that when member states are dealing with macro issues, they should take into account legal empowerment by considering how these issues will play out at the very micro and rural level. Member states can also be involved by sharing information about different legal empowerment approaches. The **United States of America** offered to provide examples of legal empowerment projects that the US has established, such as motor voter laws, entrepreneurship rights, and legal advocacy at the local level. **The Netherlands** stated that legal empowerment deserves more attention in the development debate and that the exchange of national experiences is important. The representative highlighted the need to gear efforts towards NGOs, as they are actors that have access to areas where legal empowerment support is needed the most. **Ireland** asked how the UN system could avoid duplication and maximize contributions to the MDGs. **Benin** asked how UNDP could benefit from the UN's resources. Dr. Rashid responded that legal empowerment could fit into broader goals like the MDGs and facilitate other goals like climate change adaptation and mitigation and conflict prevention. As an international organization, he stressed the need for better

coordination and cross-country learning so that UNDP can match demand and supply, promote best practices, develop expertise and roll out programmes without duplication. Member states can play a role by ensuring a more coordinated response to legal empowerment. Dr. Rashid proposed building a global coalition for legal empowerment of the poor.