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Access to Justice - A Roadway to Empowering the Poor
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“I have come to believe that the one thing people cannot bear is a sense of injustice. Poverty, cold, even hunger, are more bearable than injustice.”¹

The badge of poverty is to have no rights, no access to justice, to be disenfranchised from the law. The poor live in a parallel world where their economic poverty is structurally politically and socially defined and reinforced by their exclusion from the law and access to justice. It is almost a universal truth that the poor encounter numerous barriers accessing basic legal services and dispute resolution mechanisms within the justice system. These barriers include a lack of legal information about dispute resolution options and effective mechanisms to protect individual human and social rights. As a result, additional emphasis on alternative mechanisms to resolve disputes, legal services for the poor, indigenous dispute resolution, and legal education, including programs for children, is required to address what is often the severe lack of access to justice. A sense of worth, a spirit of hope and a culture of enterprise depend upon a sense of fairness and justice for all without favour to the rich, the powerful or political elites.

Access to justice is part of good governance and is a central building block for economic and social reform. Effective law and justice systems promote regional security, increase international confidence and help attract foreign investment. The converse is equally true. Strong and accountable institutions that operate transparently, that enable participation by citizens in decision making and that act in accordance with the rule of law are a key to economic growth and poverty reduction. Hand in hand with the issue of access to justice is promotion and protection of human rights.

Access to justice is inseparable from the struggle for social and economic justice and the struggle for economic survival. In the alternative it has been recognised over the centuries that poverty is the parent of revolution and crime. ²All are linked to the concept of respect for the dignity of the human person, acceptance that all have inherent worth not diminished by their poverty and lack of resources, physical, economic or social. At the heart of the idea of empowering the poor is a

¹ Millicent Fenwick (1910 - 1992) US Diplomat, Congresswoman
In "Words of Women Quotations for Success," by Power Dynamics Publishing, 1997.
² Aristotle (384 – 322 B.C.E.) Greek philosopher, zoologist
Politics



goal to improve the lives and life-chances of the poor and the low paid or unemployed and to contribute meaningfully, not only to the easing of their poverty, but also to the ultimate elimination of it. Neither charity nor compassion are substitutes for justice withheld. The point is well made that **‘philanthropy is commendable, but it must not cause the philanthropist to overlook the circumstances of economic injustice which make philanthropy necessary.’**³ If we accept that dignity of the individual must lie at the heart of our conception of the human person's worthiness in the world, justice is an indispensable way in which we demonstrate due respect for this inherent and inalienable worthiness. Whether we talk of economic justice or the larger more inclusive concept and practice of social justice, the principle means the moral obligation to give a person what is due, deserved, fair and rightful, whether in the general sphere of life or in the specific context of work. Justice is the roadway to empowering the poor.

The challenge will be to formulate programmes and to implement policies to promote Access to Justice. These will enable the poor to exercise their rights guaranteed under the law and to protect their property from being taken away by the bureaucratic or political elite. It will necessarily include awareness campaigns about legal rights in a language and in method sensitive to local customs, languages and dialects. This will require funding, free legal advice and advocacy for the poor by civil society groups, including lawyers and NGOs. The cost of such services explains and allows the present disenfranchisement in many countries and deprives the poor of protection. For some groups such as women and children or specific minorities, such programs should, as required, promote affirmative opportunities to encourage the appointment of women or minority judges and provide training courses in gender or minority sensitisation for the judiciary, the police and government.

Such a program must aim to empower the poor to protect themselves against government or individuals or groups who consider themselves above the law. This is a vital component of poverty reduction and empowerment.

The goal is to give meaning to the rule of law by providing resources to reform its main institutions, including but not limited to, the judiciary and the police. Central to such programmes will be measures to strengthen judicial independence and also by making sure the judiciary is adequately funded to meet its mandate. The programme will also improve governance and provide judicial training.

Hand in hand with this is law enforcement, which means an independent, accountable, transparent, and professional police force that is free of political interference. It must also include, I would suggest, an independent prosecution service. The aim or goal is a legal and judicial system that can uphold the rule of law, check bureaucratic excesses and enforce contracts and will contribute to an enabling environment for private sector-led growth and possibility of property ownership and rights for all.

³ Martin Luther King, Jr. (1929 - 1968) US Human Rights Campaigner
Strength to Love, 1963



In short I argue that the key features of the Legal Empowerment of the Poor as part of a rights based development strategy are:

- *Legal empowerment can improve the poor's material resources and circumstances. It also alleviates poverty in the broader sense of strengthening the poor's participation in decisions affecting their lives.*
- *Legal empowerment helps the poor understand and influence government, particularly regarding the rights, needs and issues to which they attach highest priority.*
- *While basic legal knowledge is helpful, often the disadvantaged cannot assert their rights unless they are organised. Thus the notion of 'knowledge is power' does not carry as much weight as that of 'organisation is power'.*
- *Civil society shows greater dedication and creativity than government in constructing legal empowerment strategies. Vibrant civil society, and laws that protect it, are important for such strategies.*
- *Many of the poor's legal needs and avenues for addressing them do not involve the courts. Administrative bodies, local governments, legislatures, alternative dispute resolution and informal processes often offer better vehicles for seeking justice.*
- *Lawyers do not always play leading roles in legal empowerment. They may instead support the work of development NGOs, community leaders and the poor themselves.*
- *While legal empowerment contributes to good local governance and getting laws enforced, it can also advance national legal and institutional reform by educating, mobilising and drawing on the experience of disadvantaged groups.*

In seeking to face the injustice, which is poverty and the desperation, which faces so many millions in the world, I remind all of the words of a man of great vision:

All the great things are simple, and many can be expressed in a single word: freedom, justice, honour, duty, and mercy, hope.⁴

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⁴ Winston Churchill (1874 - 1965) UK Political leader, author
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