

**Part 2:**

**LEGAL EMPOWERMENT:  
ADVANCING GOOD GOVERNANCE  
AND POVERTY REDUCTION**

**Overview Report**

**RETA 5856: Legal Literacy for Supporting Governance**

## EXECUTIVE SUMMARY

### I. INTRODUCTION

1. This report examines how *legal empowerment*—or the use of law to increase the control that disadvantaged populations exercise over their lives—contributes to good governance, poverty reduction, and other development goals, and how it can enhance projects funded by the Asian Development Bank (ADB) and other development agencies.

2. The *disadvantaged* include the poor, as well as those who face discrimination or abuse as a result of their gender, race, ethnic identity, or other personal attributes. In many Asian countries, the disadvantaged constitute the majority of the population. Poverty and discrimination of this kind undercut disadvantaged populations' access to rights and entitlements, as well as social, economic, and political opportunities.

3. This report draws primarily on studies conducted in seven ADB developing member countries (DMCs): Bangladesh, Indonesia, Mongolia, Pakistan, the Philippines, Thailand, and Viet Nam. It also draws on other Asian and international research, including supplementary survey research undertaken in the Philippines and Bangladesh. Together with the country and supplementary survey reports, this report constitutes the complete study *on Legal Empowerment: Advancing Good Governance and Poverty Reduction*, or the Legal Empowerment Study (LES). The LES was commissioned by ADB under its regional technical assistance (RETA 5856: *Legal Literacy for Supporting Governance*).

### II. THE NATURE AND PURPOSE OF LEGAL EMPOWERMENT

#### A. The Concept of Legal Empowerment

4. ***Legal empowerment is both a process and a goal.*** As a *process*, it involves the use of law to increase disadvantaged populations' control over their lives through a combination of education and action. Such control may relate to such priorities as basic security, livelihood, access to essential resources, and participation in public decision-making processes. It reflects the increased knowledge, capacity, and confidence of the disadvantaged, and the enhancement of their ability to work together to advance common development objectives. As a *goal*, legal empowerment refers to the actual achievement by the disadvantaged of increased control over their lives through the use of law. The distinction is important, because the process of legal empowerment can proceed even if the goal has yet to be achieved. Accordingly, this report uses "legal empowerment" as an adjective to modify "work," "activities," or "strategies" when referring to the term as a process. When "legal empowerment" is used as an unmodified noun, it refers to the goal.

5. ***Critical consciousness.*** In its most advanced forms, legal empowerment helps to impart "critical consciousness"—the ability of women, the poor, and other marginalized groups to understand and think critically about the inequitable power relationships that affect their lives, and to take action to challenge and transform those relationships.

6. **Legal empowerment involves use of the law.** Legal empowerment differs from other forms of empowerment in that it involves the explicit or implicit use of the law through training, counseling, litigation, representation in administrative procedures, advocacy before bureaucratic agencies, or other interventions. These activities may also be combined with initiatives that are not inherently law-oriented, such as community organizing or livelihood development.

7. **A combination of education and action.** Legal empowerment work can involve both education and action. Most advanced legal empowerment initiatives go beyond simply educating people. They provide the disadvantaged with opportunities to apply the knowledge or skills imparted to advance their legal interests, including taking action that secures or enforces their rights and improves their well being.

8. **Legal empowerment and legal literacy.** Legal empowerment is similar to “legal literacy,” the term originally used by ADB in commissioning the legal empowerment study. Although the two concepts differ in nuance, they are sufficiently alike in substance that they can for the most part be used interchangeably. This report adopts the term “legal empowerment” for three reasons. First, it captures the focus of the study—the use of law to empower the disadvantaged. Second, many people are confused by the term “legal literacy” and find it to be a misnomer. While those familiar with the term understand that it involves more than education, the plain meaning of the two words leads many to assume that legal literacy simply equals knowledge of the law. Third, legal empowerment better captures the emerging nexus of law and socioeconomic development efforts that promote empowerment and related goals.

9. **Legal empowerment, the rule of law, and institutional reform.** Legal empowerment is not the same as promoting the rule of law, although the two frequently overlap. Efforts to promote the rule of law have traditionally tended to focus on judiciaries and other formal legal institutions and actors. These efforts aim to strengthen and reform legal institutions and systems so that they operate fairly, efficiently, and free of interference by the state or powerful private interests. In some cases, rule of law initiatives involve and indirectly benefit the disadvantaged. In contrast, while legal empowerment has clear rule of law implications, its processes and goals focus directly on the circumstances and needs of the disadvantaged. It concerns how the law can be used to benefit them in a broad array of development fields that may not have a strict legal dimension, including education, public health promotion, agriculture, and natural resource management. Legal empowerment thus bridges a gap between the rule of law and socioeconomic development, integrating the rule of law to meet priorities in other development fields.

10. Legal empowerment contributes to institutional reform by mobilizing public interests and expectations that are often neglected by more narrowly focused efforts to strengthen formal institutions. Institutions generally, and legal and bureaucratic institutions in particular, tend to resist change. While legal institutions have come under increasing pressure from domestic reformers and the international community, they continue to operate with minimal sense of accountability to, or pressure from, the general public, much less from disadvantaged populations. In its most sophisticated forms, legal empowerment adds a participatory dimension to institutional reform. As their knowledge, capacity, and confidence grow, the disadvantaged are able to more capably and confidently engage in public decision-making processes. They gain greater control over their lives by learning how to effectively interact with a range of institutions, creating opportunities to participate in public decision making rather than waiting for opportunities to be extended to them. Public participation adds further pressure to institutional reform efforts, challenging legal and other institutions to infuse development content in their regulatory role. While there is clear value in the role of legal empowerment in assisting

individual citizens to resolve specific problems, its equally great contribution lies in the higher-level institutional and procedural reforms and changes in the political dynamics of decision making to which it contributes by mobilizing collective capacity and demand.

11. **Legal empowerment and development initiatives.** Legal empowerment equips the disadvantaged to more effectively advance their interests through engagement with the legal system, public agencies, civil society, private parties, and law reform efforts. It may also increase the benefits that the disadvantaged enjoy as participants in development projects. This latter element is particularly important for ADB and other development agencies. The success of development projects depends largely on two indices: first, that public institutions and officials responsibly exercise legal powers that affect the rights and interests of project beneficiaries; second, that opportunities are created for beneficiaries to advance their rights and interests through informed participation in project-related, decision-making processes.

## **B. Origins of the Legal Empowerment Study**

12. In commissioning RETA 5856: *Legal Literacy for Supporting Governance*, ADB sought to explore “the effectiveness of legal literacy as a tool for institutionalizing good governance through the empowerment of disadvantaged groups such as women, minorities, and low income groups. Governance is best advanced where officials are sensitive and responsive to the needs, priorities, and participation of beneficiaries.”

13. ADB's October 1999 policy paper, *Fighting Poverty in Asia and the Pacific: The Poverty Reduction Strategy of the Asian Development Bank*, notes that poverty transcends traditional definitions based on income level. It asserts that, “in ADB's view, *poverty is a deprivation of essential assets and opportunities to which every human is entitled...Beyond income and basic services, individuals and societies are also poor—and tend to remain so—if they are not empowered to participate in making the decisions that shape their lives.*” [Emphasis in original]<sup>1</sup> By identifying ways of improving governance, this study also aims to advance ADB's overarching goal of reducing poverty in the Asian and Pacific region.

14. One objective of ADB in this study is to integrate legal empowerment into the projects it funds (for example, in the fields of forestry, irrigation, health, and other areas of socioeconomic development) in order to improve the development impact of these projects. Another objective is to understand how legal empowerment work can contribute to law reform, to the implementation and enforcement of laws, and to strengthening administrative and other legal mechanisms used for public decision making. To this end, this study identifies the most effective strategies for legal empowerment, and analyzes the factors that contribute to their success.

## **C. Constraints on Access to Justice and Participation in Governance by the Disadvantaged**

15. Legal empowerment work aims to overcome the combination of constraints that prevent the disadvantaged from accessing the legal system and participating in governance, and which thereby limit the success of poverty reduction efforts. The seven country studies identified a series of fundamental constraints that are largely consistent throughout Asia. Examples include:

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<sup>1</sup> ADB. 1999. *Fighting Poverty in Asia and the Pacific: The Poverty Reduction Strategy of the Asian Development Bank* (R179-99), p.3, para. 12.

- lack of economic independence
- minimal understanding of law and the rights that it confers
- limited access to affordable legal services
- lack of knowledge, incentives, and resources among government officials
- limitations in the outreach and capacity of civil society organizations to provide legal services to the disadvantaged
- inconsistency between formal law and traditional values
- poorly drafted or contradictory laws and regulations
- failure to implement sound laws
- traditional use of law as an instrument of control (rule *by* law rather than rule *of* law)
- corruption

16. These constraints together give rise to a sense of “learned helplessness” among the disadvantaged—a feeling of powerless among those whose experience leads them to conclude that traditional power relations will invariably prevent them from asserting their rights or participating in public decision-making processes. Consequently, the disadvantaged tend to view legal reform efforts with skepticism or indifference.

#### D. Legal Empowerment Activities

17. Legal empowerment is pursued through a variety of activities and strategies. *Activities* constitute a *strategy* when one or more organizations combine them in a coherent manner to advance the empowerment of intended beneficiaries. The most successful strategies combine a number of different activities. Examples of individual activities include:

18. **Print media.** Pamphlets, posters, comic books, newspapers, and other publications serve as practical media for sharing basic legal information with audiences of various sizes and literacy levels. Some materials of this kind provide specific advice, while others seek to promote broader attitudinal change:

- In **Bangladesh**, nongovernmental organizations (NGOs) post anti-domestic violence posters on the walls of community meeting places in an effort to combat traditional gender bias and lack of awareness of women's legal rights. In the **Philippines**, NGOs produce comic books designed to educate farmers about land reform laws and other topics through a medium that simultaneously teaches and entertains.

19. **Broadcast media, performing arts, and popular culture.** Radio, television, the performing arts, and popular culture offer excellent opportunities to deliver information to large sectors of the population. They appeal to a broad audience in serving a combined entertainment and educational function. In addition, they reach audiences with varying levels of education, unconstrained by the literacy factors that may narrow the impact of printed materials.

- In **Indonesia**, NGOs employed television and radio broadcasts to educate women about their voting rights and to encourage them to participate in the 1999 national election. In **Thailand**, the Attorney General promotes popular radio spots that inform citizens about the country's new Constitution, while the Student Federation of Thailand produces radio plays concerning political rights and electoral rules. In **Cambodia**, over 400,000 residents of remote rural communities across the country attended live performances of a traveling street theater play on domestic violence, based on a traditional form of improvisational comedy familiar to all Cambodians.

20. **Community-based training.** Intensive, hands-on, and interactive community-based training targets the specific needs of select communities, and allows legal empowerment providers to work closely with beneficiary groups to better understand the problems that they face and to design and implement strategies to address them.

- In **Pakistan**, NGOs use videos and printed materials during community workshops to educate citizens about diverse legal issues. In **Bangladesh**, NGO training sessions stimulate attitudinal change by helping participants think critically about the law, so that they will no longer passively accept unfair laws or the inequitable implementation of laws.

21. **Paralegals.** In developing countries paralegals are generally laypersons with specialized legal training. As cost-effective alternatives to lawyers, they offer various forms of legal education, advice, and assistance to disadvantaged groups. Where paralegals are themselves members of the groups or communities that they serve, they are familiar with local needs and issues, and enjoy the trust of their fellow citizens.

- In the **Philippines**, farmers trained by local NGOs Saligan and Kaisahan have successfully guided thousands of land reform applications through the Department of Agrarian Reform.<sup>2</sup>

22. **Alternative dispute resolution (ADR).** ADR provides a timely, cost effective, and in some instances, participatory and community sanctioned alternative to the formal court system.

- In **Bangladesh**, the Madaripur Legal Aid Association serves the million-plus residents of Madaripur District by recruiting community leaders to serve on local mediation committees. It provides them with very basic legal training and encourages them to apply a combination of law and common sense dispute resolution principles rather than bow to local elite pressure or to gender biases in mediating disputes. In **Viet Nam**, over 80,000 state-administered "conciliation groups" draw on traditional practices in mediating small-scale civil disputes among neighbors, family members, and other parties. In the **Philippines**, the *barangay* justice system resolves neighborhood conflicts through a compulsory mediation system, while the Department of Agrarian Reform and the Department of Environment and Natural Resources train mediators and establish procedures for resolving land and environmental conflicts before they become embroiled in contentious administrative or judicial review proceedings.

23. **Legal aid.** Free or low-cost legal services generally focus on the legal needs of the poor, including both civil and criminal matters. While legal aid can include representation in formal court proceedings, it frequently involves advice and assistance that avoids the need for cases to be tried, including ADR or engagement with administrative agencies.

- In **Bangladesh**, the Bangladesh Legal Aid and Services Trust provides a variety of legal support services to disadvantaged citizens through a nation-wide network of offices.

24. **Administrative advocacy.** NGOs assist partner populations to pursue their interests and disputes through administrative processes involving tribunals that operate under the authority of executive agencies or local governments.

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<sup>2</sup> See later references to the supplementary research on the impact of legal empowerment on agrarian reform in the Philippines.

- In the **Philippines**, some NGOs assist fishing communities to secure coastal fishing rights that fall under the legal purview of local governments. Others help partner populations to prepare applications to the Department of Environment and Natural Resources to harvest forest products or to settle disputes before tribunals of the Departments of Labor and Agrarian Reform.

25. **Educating and training government officials.** Educating and training government personnel can potentially benefit disadvantaged populations by making officials more knowledgeable about the law and more sensitive and responsive to the needs of the disadvantaged. These activities serve to educate public officials about citizens' rights and the officials' corresponding obligations. At the same time, they empower citizens and communities to more effectively engage with public officials and agencies.

- In **Cambodia**, the local NGOs Cambodian Institute of Human Rights and the Khmer Institute of Democracy have for several years collaborated with the government in conducting training programs in good governance and human rights for national and local-level public officials.

### III. LESSONS LEARNED FROM SUCCESSFUL LEGAL EMPOWERMENT STRATEGIES

#### A. The Basic Finding: Legal Empowerment Helps to Advance Good Governance and to Reduce Poverty

26. Legal empowerment helps to advance good governance and to reduce poverty in both substantial and subtle ways, in some cases simultaneously. Poverty reduction must be understood not simply in terms of increased income or other improvements in material circumstances, but also in the sense in which informed participation by the poor in decisions that affect their lives helps to reduce poverty. While poverty reduction is sometimes equated with simply improving the income or other material circumstances of the poor, it also involves the informed participation of the disadvantaged in decisions that affect them, both because such participation is inherently important to their quality of life and because it can help to improve their material circumstances. When this includes citizen or community participation in *public* decision-making processes, legal empowerment contributes to good governance.

27. Studies by Edwards, Evans, Fox,<sup>3</sup> and others point to the importance of capacity building, organization, or political influence in improving the lives of the disadvantaged. Where such factors combine with rights-oriented training of and action by or on behalf of disadvantaged groups, they constitute an effective legal empowerment strategy.<sup>4</sup>

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<sup>3</sup> Michael Edwards, NGO Performance—What Breeds Success? New Evidence from South Asia, *World Development*, 27(2), 1999, at 371; P. Evans, Development Strategies Across the Public-Private Divide, *World Development*, 24(6), 1996, 1033-1037; J. Fox, How does civil society thicken? The political construction of social capital in rural Mexico? *World Development*, 24(6), at 1089-1103.

<sup>4</sup> More direct evidence flows from non-LES reviews of what is in effect legal empowerment work. For example, *Many Roads to Justice*, a 2000 Ford Foundation analysis of the operations of many of its law-oriented grantees around the globe, in part illuminates such work without using the term "legal empowerment." Mary McClymont and Stephen Golub, eds. *Many Roads to Justice; The Law-Related Work of Ford Foundation Grantees Around the World* (New York): Ford Foundation, 2000.

## B. The Roles and Impact of Legal Empowerment

28. Legal empowerment helps advance good governance, poverty reduction, and other development priorities by overcoming constraints on access to justice and participation in governance. Its roles and impact range in sophistication and scope from imparting basic knowledge of law and rights to providing the disadvantaged with the skills and advocacy tools needed to confidently engage in legal and other public decision-making processes.

29. **Increased awareness of rights.** In its simplest form, legal empowerment provides the disadvantaged with a general awareness of law and the concept of rights. However basic, such awareness in turn provides them with a sense that law and rights have relevance to their lives.

30. **Increased knowledge of specific legal rights and issues.** The disadvantaged may possess a general awareness that they have rights, yet lack specific knowledge of how those rights are prescribed or enforceable in law. Legal empowerment imparts practical legal knowledge by educating citizens about specific laws, regulations, constitutional provisions, or milestone court rulings that have a direct bearing on their status or rights as citizens.

31. **Enhanced practical legal skills.** It is one thing to know one's legal rights; quite another to know how and where to assert them. Legal empowerment provides beneficiaries with basic legal skills, such as how to launch a legal right of appeal where an application for a national identity card is rejected by the administering government agency.

32. **Increased public confidence and higher expectations.** Legal empowerment equips the disadvantaged to confidently act on their legal knowledge and practical skills, helping them to overcome deep-seated feelings of inferiority or the belief that in practice the law can only be used against them. Building legal awareness and knowledge contributes to attitudinal change, which in turn makes people more open to acquiring legal knowledge and skills, more confident in their ability to apply their knowledge and skills, and more likely to voice their expectations in demanding responsible action by public officials and agencies.

33. **Greater access to the legal system and increased participation in public decision-making processes.** Improved access to justice, increased participation in governance, and other legal empowerment goals are frequently constrained by obstacles such as physical intimidation, economic power advantages, or prevailing community norms. When opposition is too powerful for individuals to challenge, legal empowerment work combines with allied efforts such as community organizing to equip disadvantaged groups to apply what they have learned through collective action.

34. **Successful participation in legal implementation and government decision making.** Legal empowerment contributes to the implementation of laws by helping to counter the failure or refusal of public agencies and officials to enforce existing laws and administrative procedures. This generally occurs through enhanced participation by affected populations in legal and governmental processes and decisions.

35. **Greater sensitivity, responsiveness, and accountability on the part of government officials.** Legal empowerment helps to facilitate improvements in the knowledge, attitudes, behavior, and other performance standards of government officials. Proven strategies include training public officials and corollary efforts to equip the disadvantaged to more effectively lobby, cooperate with, or otherwise interact with government agencies.

36. **Participation in law, regulatory, and budget reform.** Legal empowerment helps to mobilize the disadvantaged to inform the development of laws, public policy, or budget reform. This involves enabling citizens and communities to identify problems with existing laws or resource allocations, rather than blindly accepting them. Where the disadvantaged play a role in law, regulatory, or budget reform—either directly or through representation of their interests by NGOs or other interlocutors—and their priorities and perspectives are taken account of, they genuinely participate in decisions that shape their lives. A proven strategy in law reform efforts involves the establishment of coalitions and networks.

- In the **Philippines**, NGO coalition advocacy has led to the enactment of several important pieces of legislation, including the *Local Government Code*, the *Urban Development and Housing Act of 1992*, and the *Comprehensive Integrated Shelter Financing Act of 1994*. In **Thailand**, efforts of the Legal Aid Center sparked the creation of numerous NGOs that seek to protect and promote human rights. Evidence assembled by these NGOs of violence against human rights activists led to the establishment of the Parliamentary Standing Committee on Justice and Human Rights.

37. **Improvements in material circumstances.** Legal empowerment contributes to improvements in the material circumstances of those who benefit from socioeconomic development efforts, particularly in the context of poverty reduction. For example, learning about the law may help women to reduce the incidence of domestic violence in their communities or help farmers to take advantage of agrarian reform laws in ways that will increase their income.

38. **Implicit legal empowerment:** Some development initiatives have only an implicit legal empowerment dimension. In certain circumstances, disadvantaged groups can increase their capacities and control over their lives without use of the law. Through participation in development programs, people may learn about the law simply by becoming acquainted with the role and procedures of certain government offices with which they regularly interact.

- In **Pakistan**, the government's National Rural Support Program (NRSP) has fostered linkages between community organizations and line departments, resulting in the execution and functioning of hundreds of development schemes. While there is no intrinsic legal empowerment focus to the program, community organizations acquire knowledge through dealing with legal forms, rules, and procedures. Capacity and confidence building are key features of this effort.

39. **"Bread and butter" legal aid.** Some legal service efforts simply provide basic advice or representation, without carrying out the integrated strategies that have the greatest impact on governance and poverty reduction. Even this form of legal assistance, which some practitioners refer to as "bread and butter legal aid," may have a limited empowering effect, though in some cases it is merely a stopgap measure.

### **C. Features of Successful Legal Empowerment Work and the Environment in Which It Is Most Likely to Succeed**

40. The Legal Empowerment Study identified several features of successful legal empowerment work and the enabling environment in which it flourishes. These features are largely consistent among the seven countries studied and with experience elsewhere in Asia.

41. **Integrated strategies show best success in advancing legal empowerment.** Legal empowerment is most effective when it connects with other aspects of development. While

some integrated strategies have a strictly legal focus, certain organizations take integration a step further, combining legal work with activities that address development and/or governance, such as community organizing, group formation, livelihood development, or participation in civic affairs.

- In the **Philippines**, the NGO Kaisahan organizes farmers, trains paralegals to aid fellow farmers in agrarian reform processes and tribunals, and trains its partner communities and local government officials on local budgetary and governance matters. In **Bangladesh**, population management efforts by family planning NGOs have been strengthened by integrating them with legal services, and vice versa. By comparison with legal service programs that were introduced in isolation, communities whose members were already familiar with family planning NGOs readily accepted the integrated programs. Ultimately, women who became aware of their rights achieved greater leverage in asserting their autonomy in personal reproductive health decisions.<sup>5</sup>

42. Many successful legal empowerment efforts build on a base of prior group formation, micro-credit schemes, family planning efforts, or other development initiatives. Accordingly, nonformal legal education and other legal services may best be introduced in conjunction with ongoing development initiatives.

- In the **Philippines**, Alternative Law Groups (ALGs), a network of local NGOs that combine legal and development work, regularly engage with partner populations that have previously been organized by other NGOs, local churches, or unions. Much ALG experience indicates that it is problematic to work with a partner community-based organization (CBO) that is poorly organized or fractured by internal divisions.

43. **Knowledge alone is insufficient.** While knowledge of the law is a vitally important part of legal empowerment, knowledge-based empowerment is substantially constrained if it cannot be converted into concrete action. The disadvantaged are most likely to act on their knowledge where it couples with such activities as community organizing, mediation, or litigation. Providing people with basic knowledge alone can prove effective in those limited circumstances where a civil society, political, or governmental infrastructure already exists that enables them to act on their new knowledge and where no major obstacles hinder them in making use of what they have learned.

- In **Pakistan**, the Aurat Foundation has helped secure voting rights, minimum wages, access to credit, provincial assembly seat allotments, and other benefits for women through a combination of legal and development activities. In the **Philippines**, Alternative Law Groups similarly collaborate with CBOs and other NGOs to raise awareness and knowledge of the law, organize communities, develop and work with paralegals, conduct administrative advocacy, litigate, and negotiate settlements.

44. **Organization is power.** Organization plays an important role in legal empowerment. While the popular idiom “knowledge is power” is compelling, the alternative “organization is power” better captures a key feature of many successful legal empowerment efforts. Even if the disadvantaged understand their rights, they may remain powerless unless they work together to assert common interests or to protect members of their group. Disadvantaged populations most

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<sup>5</sup> Karen L. Casper and Sultana Kamal, Evaluation Report: Community Legal Services Conducted by Family Planning NGOs, a report prepared for The Asia Foundation’s Bangladesh office (Dhaka: March 1995).

effectively assert their rights and succeed in compelling government to respond to their needs where they act as a group rather than as individuals.

- In **Bangladesh**, the women's NGO Banchte Shekha takes collective action to challenge actions or omissions of individuals, local elites, and public authorities that threaten the rights of women. Absent collective action and defense of this kind, it is far easier for a husband to beat his wife, for a landlord to cheat tenant farmers, or for the police to make an unlawful arrest.

45. ***Civil society plays an important role in legal empowerment.*** Legal empowerment flourishes where development-oriented civil society is vibrant and independent, and where government is responsive to it. While legal empowerment cultivates dynamic civil society and responsive government, it partly hinges on these being present to begin with. Among the seven countries studied, the examples of legal empowerment work from Bangladesh, Pakistan, the Philippines, and Thailand demonstrate the greatest degree of strategic integration and are arguably the most effective. This reflects the fact that the four countries have had relatively open civil society environments for longer periods of time than the other three countries studied.

46. ***Government can play an equally important role.*** While some government bureaucracies oppose or are indifferent to legal empowerment efforts, there are many instances in which responsive government agencies and personnel have made significant contributions. The ideal situation occurs where government agencies and civil society work together as full-fledged partners, drawing on the resources and authority of the former and the flexibility, grassroots outreach, and goodwill of the latter.

- In **Viet Nam**, the government has played a leadership role in national legal empowerment efforts. The 1998 *Regulation on the Exercise of Democracy in the Communes* provides a legal framework for consultative relations between local-level administration and the people, and affirms the role of citizens to provide input and oversight in selected areas of local planning and decision making. In **Mongolia**, the National Center Against Violence has trained police, judges and prosecutors regarding violence against women.

47. ***Legal empowerment occurs primarily at the community level.*** Not all law or regulatory reform takes place at the national level. The most positive results generally emanate from community-specific work. In many countries, local regulations and ordinances are at least as pertinent to legal empowerment, because the disadvantaged can more directly influence them. Accordingly, local government may be the most effective partner in empowerment initiatives. In many countries, citizens are assuming a more active role in local legal and financial decision making. The results of this informed participation include greater transparency, accountability, and responsiveness on the part of public agencies and officials.

- In **Mongolia**, the NGO Women for Social Progress held a series of community consultations that led to the submission of a set of proposals to a local government unit that would advance the rights and interests of women constituents. The unit subsequently incorporated fourteen of the proposals in its budget. In the **Philippines**, decentralization under the *Local Government Code* established a legal framework conducive to legal empowerment. While

the Code has not led to better governance *per se*, it provides an institutional framework that incorporates the participation of NGOs in local governance, thereby validating their role.<sup>6</sup>

48. **Legal empowerment can potentially have an impact at the national level.** Many decisions that have a substantial effect on people are clearly made at the national level, sometimes in consultation with global partners such as international financial institutions. While this raises challenges to citizen participation, they are not insurmountable.

- In **Thailand**, ordinary citizens have contributed to important national legal and policy reforms, including constitutional and consumer protection reforms. In the **Philippines**, citizens have similarly played a part in legal and regulatory reforms affecting natural resource management, agrarian reform, gender issues, urban housing, and other issues.

49. **Legal implementation is crucial.** While law reform is both a central goal and tool of many empowerment initiatives, the law itself can facilitate or frustrate legal empowerment. Most countries have at least some good laws, yet they are routinely ignored in many places. The greatest challenge lies in getting good laws implemented, regardless of whether they are newly enacted or old and neglected.

50. **Effective legal empowerment is about legitimate self-interest.** Legal empowerment ultimately appeals to the self-interest of the disadvantaged. The more relevant a legal empowerment strategy is to the needs and interests of its intended beneficiaries, the more likely it is to be embraced by them and to succeed.

#### **D. The Role of Legal Empowerment in Advancing Good Governance and Poverty Reduction: Survey Research in the Philippines and Bangladesh**

51. To pursue further qualitative evidence of the impact of legal empowerment, the LES commissioned two supplementary survey studies in the Philippines and Bangladesh.<sup>7</sup> In analyzing the role of legal empowerment in advancing agrarian reform in the Philippines and the impact of the legal empowerment work of three local NGOs on citizen knowledge, governance, and poverty in Bangladesh, both studies found significant evidence that legal empowerment contributes to good governance and to poverty reduction.

52. **Philippine agrarian reform and its resulting benefits are advanced by legal empowerment.** The Philippine supplemental study of the LES focused on the work of the NGO consortium Paralegal Education Skills Advancement and Networking Technology (PESANTEch). PESANTEch helps to strengthen the capacities of CBO-linked farmer-paralegals who work on agrarian reform and other land tenure issues and promote increased public participation in local governance. While PESANTEch attorneys may appear in court where necessary, most legal representation is provided by the 50 or more farmer-paralegals who help prepare applications and represent their fellow CBO members in proceedings of Department of Agrarian Reform (DAR) adjudication boards.

53. The study reviewed three types of data: interviews with local DAR officials who independently assessed which barangays<sup>8</sup> were most and least successful in implementing

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<sup>6</sup> Terrence George, "Local Governance: People Power in the Provinces?" in G. Sidney Silliman and Lela Garner Noble, eds., *Organizing for Democracy: NGOs, Civil Society and the Philippine State*, 223-53 (Honolulu: University of Hawaii Press), 1998, at p. 249.

<sup>7</sup> See Part 2, Section IV and Appendixes 1 and 2.

<sup>8</sup> Small geographic/administrative units.

agrarian reform; survey research in four barangays, consisting of two that have PESANTEch legal empowerment activities (the “intervention” areas) and two demographically similar areas that do not (the “control” areas); and focus group discussions in these four barangays.

54. All three analyses strongly indicate more positive outcomes in the communities where legal empowerment work has been pursued. The DAR officials rated the success of agrarian reform efforts significantly more favorably in the intervention barangays, as opposed to the controls. The survey research findings indicate that in the intervention areas land is much more likely to have been acquired through agrarian reform. The results also reveal higher productivity in the intervention areas, along with higher and more disposable income, greater farm investment, and better housing quality (as indicated by galvanized iron versus grass roofs). Focus group participants from the intervention barangays were more specific in identifying land rights violations committed in the hypothetical case that they were invited to comment on, citing relevant laws and the specific government agencies that could best respond to the situation. In addition, they better articulated the procedural steps to be taken to resolve the problem. In the control groups, participants tended to favor seeking outside help rather than taking independent initiative in resolving problems. They frequently suggested that assistance be sought from a list of government agencies, with little understanding of what specific support these agencies could provide.

55. ***Bangladeshi NGOs undertaking legal empowerment work achieve multi-faceted socioeconomic impact.*** An LES-commissioned study on *The Impact of Legal Empowerment on Selected Aspects of Knowledge, Poverty and Governance in Bangladesh* considered the legal empowerment work of three indigenous NGOs in Bangladesh. It found significant positive impact on poverty, governance, gender equity, and legal knowledge.

56. Beneficiary and control populations were surveyed for: (i) the women’s NGO Banchte Shekha, which provides mediation and other legal services to its member-beneficiaries as part of an integrated development strategy that also includes livelihood, credit, health, education, and gender-oriented work; (ii) Samata, which specializes in land rights advocacy, but whose integrated development strategy also includes legal services, education, livelihood development and facilitating member-beneficiary access to government agricultural services; and (iii) the Madaripur Legal Aid Association (MLAA), a legal service NGO that addresses family, land, and minor commercial disputes, with a particular emphasis on mediation.

57. Despite slightly higher levels of education and affluence in the control populations, all of the “intervention” (NGO beneficiary) samples scored higher in four critical areas: general knowledge of law; engagement and confidence in citizen advocacy; positive perceptions of gender equity and the role of women in governance; and confidence in the value of law and good governance.

58. The more specific impact of the NGOs’ legal empowerment work included poverty-alleviating improvements in the well-being of NGO member/beneficiary populations, as demonstrated by Banchte Shekha’s (and to a lesser extent Samata’s) effectiveness in restraining the widespread but illegal practice of *dowry*.<sup>9</sup> The NGOs in general, and Samata in particular, also appear to contribute to use by the poor of government-managed lands that otherwise are frequently subject to seizure by local elites. In a finding that holds potential

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<sup>9</sup> Dowry is the payment of money, livestock, or material goods such as motorcycles by the bride’s family to the family of the groom, in order to secure a marriage. Dowry demands frequently continue following marriage, and are often accompanied by threats of or actual violence against the wife.

implications for poverty reduction, the NGO sample populations report dramatically less reliance than control groups on such elites for legal assistance, particularly in the case of MLAA beneficiaries, who take advantage of alternative avenues for relief.

59. Since poverty reduction involves not just material circumstances, but also the poor's participation in the decisions that shape their lives, the integrated development strategies of Banchte Shekha and Samata prove significant in an additional regard. Survey results indicate that they effectively foster positive community attitudes concerning women's right to seek legal redress and participation in governance. In addition, citizen participation in joint actions is far higher for the two NGOs' beneficiaries than their control groups. Of perhaps greater significance, nearly all of their intervention sample respondents who report such participation characterize it as completely or partially successful. The two NGOs' sample groups also indicate greater success than the two control groups in influencing the decisions of local government officials.

## **E. Education and Training, the Media, and Institutional and Individual Roles**

60. ***The most useful kinds of information for the disadvantaged.*** Information must be tailored to the particular needs that a legal empowerment effort is intended to address and the goals that it aims to achieve. Sometimes knowledge of international human rights is central, while at other times a domestic legal context is more valuable. In some cases, the best ways of raising legal awareness involve information that is not at all legal in nature. Disadvantaged populations are most interested to learn about issues of greatest relevance to their lives, such as income, shelter, health, and physical security.

61. ***The most effective ways of conveying information.*** Experience in participatory education methodologies affirms the importance of interactive "learner-centered education," as opposed to "teacher-centered" lectures, in advancing legal empowerment and integrating education into action-oriented strategies. Learner-centered education frequently translates into what are known as "popular education methodologies," through which new, complex and even alien concepts are imparted in ways that relate to the day-to-day life experience of beneficiaries.

62. ***Who should design and conduct information dissemination efforts?*** Legal information frequently must be adapted to the needs and aptitudes of audiences who are poorly educated. Experience indicates that social scientists, community organizers, teachers, and persons with other non-legal specialty skills can make substantial contributions to legal dissemination efforts. Simple communication skills are often more important than legal expertise for building basic legal knowledge among the disadvantaged. Lawyers do not necessarily make good law teachers, at least for the disadvantaged. Those who are most successful tend to possess a "developmental orientation" and view disadvantaged groups as equal partners rather than inferior clients.

63. ***Mass media:*** Mass media represents the most widespread method of conveying legal information. The use of broadcast media is particularly significant where audiences are illiterate. While it can be a highly effective tool for increasing legal awareness or knowledge, the fact that it has great potential does not mean that it achieves a positive impact in every case. Print and broadcast outlets can help to cultivate legal awareness and knowledge, yet there is little evidence to indicate that mass media alone effectively builds legal skills, affects behavior, enhances participation and good governance, or reduces poverty. The awareness-raising value of media becomes particularly important where it is linked to advocacy campaigns that include other elements of legal empowerment, such as pressing for legal reform or implementation.

64. ***The Future of the Internet.*** Information and communications technology holds great potential for benefiting the disadvantaged. Across Asia, governments and NGOs are beginning to use the Internet to provide on-line information about selected laws, pending bills, and government actions on legal issues. Whatever the pace of technological development, many societies will continue to operate on the basis of personal interaction rather than objective information. Until Internet access is truly global, the hard work of organizing and mobilizing disadvantaged groups at the community level will continue to be a fundamental feature of legal empowerment.

- In **Indonesia**, the National Law Commission operates a website to highlight its role in setting the national legal reform agenda, while the first-of-its-kind legal website of Hukumonline.com serves as a forum for public dialogue and provides a database of laws, regulations, and court decisions.

65. ***Courts, lawyers, and laypersons.*** Courts can play an important role in legal empowerment, yet other forums may be even more crucial. While lawyers also play a major role, particularly in advising on the technical dimensions of the law, the contribution of non-lawyers is equally valuable. Administrative law, local governance, alternative dispute resolution, group advocacy, NGO non-lawyers, and the disadvantaged themselves have central roles to play in legal empowerment. As a matter of principle, beneficiaries should take the lead wherever possible, with support organizations responding to the priority needs and interests of their constituents.

## **F. Sustainability**

66. Legal services that contribute to empowerment of the disadvantaged should be seen as a public good—a set of activities that benefit society, but whose costs cannot be easily charged to specific parties. The population that directly benefits from these services cannot afford to pay for them. While legal services will never be self-supporting, they nevertheless merit ongoing funding as long as they yield substantial impact. At the same time, legal service providers and donors should explore local philanthropy, modest fee-for-service arrangements, and other prospective strategies for apportioning the costs of legal empowerment work among various stakeholders.

## **IV. RECOMMENDATIONS**

### **A. Integrating Legal Empowerment into Mainstream Socioeconomic Development Projects**

67. ***Legal empowerment work should be integrated into many projects supported by ADB and other international development institutions.***

- Legal empowerment has a proven track record in contributing to good governance and poverty reduction. In particular, it has helped to significantly strengthen socioeconomic development efforts in a variety of areas, including natural resource management and conservation, rural development, land tenure, decentralization, and women's health. The prospect of certain projects succeeding will be much greater where a legal empowerment component is incorporated.

**68. Assess potential project performance impact in determining when to include a legal empowerment component:**

- The basic criteria for deciding whether to initiate a legal empowerment component include whether project performance will be enhanced if beneficiaries understand and act on their rights and responsibilities under the project and under relevant regulations and laws. Such understanding and action can in turn help to stimulate responsive and responsible conduct by government officials and even by private parties who influence project performance.

**69. Legal empowerment begins with project assessment and design:**

- Legal empowerment begins with policy dialogue, project assessment, and project design. NGOs and disadvantaged populations should be part of the mix of participants who define project strategies, not least their legal empowerment components. This will help to avoid poor implementation down the line. While such projects/components should be developed with community input and support, it may be easier to do this if the general topic of legal empowerment has been raised with government officials early on.

**70. Pursue legal empowerment work through judicial and non-judicial forums:**

- As a matter of principle, practicality, and cost effectiveness, donors should seek to pursue legal empowerment work through a combination of judicial and non-judicial forums. The latter tend to be more accessible and comprehensible to the disadvantaged than courts. At the same time, litigation can constitute a necessary element in a comprehensive legal empowerment effort

**71. NGO partnerships are particularly effective**

- It is worthwhile to partner with NGOs, community-based organizations, and other civil society agents as much as possible for the various elements of legal empowerment work. NGOs should not be viewed simply as contractors. They should be accorded maximum flexibility to accommodate community needs and priorities, and to build partnerships with government units or sympathetic allies within bureaucracies.

**72. Encourage NGO-government cooperation**

- Government agencies have the potential to play an important role in legal empowerment. In particular, international development agencies should encourage and support the collaborative efforts of civil society organizations and government agencies.

**73. Flexibility is the key to any legal empowerment initiative:**

- International development institutions and their governmental partners should avoid defining their goals in rigid terms. The former should be open to the possibility that legal empowerment will yield good governance and poverty reduction benefits that fall outside strictly-defined project parameters.

**74. *No single approach is preferable to others:***

- There is no standard “best practice” for legal empowerment. A given project should accordingly allow for different legal empowerment strategies, because specific community needs will vary. The integration of legal empowerment work into the projects of ADB and other development institutions is a new endeavor that should allow for experimentation and learning.

**75. *Legal empowerment involves more than education and training:***

- Support for legal empowerment work should involve more than just education and training. It may also need to include mediation, litigation, media coverage, community organizing, advocacy, and other activities through which citizens and communities can build on their legal knowledge in actively pursuing their rights and interests.

**76. *Budget to retain or otherwise engage lawyers:***

- The possibility of litigation and other law-oriented advocacy means that the budget for the legal empowerment component of a project should include funds to engage professional legal services, where necessary. The same lawyers who provide such services also should be involved in the training and counseling of project beneficiaries, so that the two groups become familiar with each other. Whatever mix of services lawyers provide, their professional inputs are particularly effective where affiliated with legal service NGOs.

**77. *Legal empowerment is not the exclusive domain of lawyers:***

- While lawyers contribute important technical skills, a professional background in law is not a prerequisite to effective involvement in legal empowerment work. Various persons who have no formal legal background should play roles in legal empowerment projects.

**78. *Paralegal development is a worthy investment, wherever appropriate:***

- A paralegal is a valuable resource because he or she can cost effectively teach the disadvantaged about the law and help them to act on that knowledge in dealing with the police, administrative agencies, private parties, and even the courts. Paralegals are particularly effective when they are recruited to serve the very communities in which they live.

**79. *Understand the strengths and limitations of media, education, and training:***

- Media, education, and training are powerful devices for affecting knowledge, awareness, and attitudes, but they have limitations as primary vehicles for generating action that will improve governance and help to reduce poverty. They are most effective as part of a broader legal empowerment strategy.

**80. *Community-specific actions are important:***

- Community-specific actions should be supported to build up a civil society infrastructure that will help to advance legal empowerment, and in turn to enable such infrastructure to affect

governance and poverty reduction. These actions include community organizing, group formation, legal aid, administrative advocacy, and paralegal development.

**81. *Groups play an important role in legal empowerment:***

- Organized groups are much more effective in securing their rights than are isolated individuals. Accordingly, legal empowerment initiatives should consider whether such groups are in place and, if not, whether to help establish them. Wherever appropriate, development organizations can and should build on their experience in and orientation toward working with community-level groups such as water and forest user associations. Such groups constitute a base for legal empowerment initiatives.

**82. *Legal empowerment initiatives are not easily sustainable:***

- Do not expect easy sustainability in a legal empowerment initiative. Legal services are public goods that merit ongoing support, as opposed to market commodities that are commercially viable. At the same time, local philanthropy, modest fee-for-service structures, and other prospects for making legal empowerment work more sustainable should be explored by legal service providers and donors.

**B. Integrating Legal Empowerment into Legal Reform Projects**

**83. *The greatest legal needs of the disadvantaged may require projects that focus more on non-judicial institutions and processes:***

- Assessment and design of legal reform projects should take account of the fact that many of the greatest legal needs of the disadvantaged lie primarily outside the realm of the courts and other formal legal institutions. Legal empowerment strategies to address these needs will in turn complement conventional institutional reform efforts. Project design should analyze the greatest legal needs of the disadvantaged and how best to address them, rather than depending on assumptions about the primacy of the judiciary or other justice sector institutions. This may ultimately point to a greater focus on administrative law, executive agencies, or local government.

**84. *Support the legal operations of NGOs and collaborative partnerships between NGOs and government agencies:***

- The LES highlights the centrality of NGOs and other civil society actors in delivering legal services, improving the efficiency of legal systems, and using the law to advance good governance and poverty reduction. The rule of law can be advanced by projects that support organizations engaged in this work, regardless of the pace progress on the government side. Activities that support the legal operations of NGOs or facilitate collaborative partnerships between NGOs and government agencies in legal reform efforts should be considered.

**85. *NGOs have a role in conventional legal and judicial reform projects:***

- NGOs can add value to "conventional" judicial sector-oriented reform projects through contributions to training and other educational activities targeting judges, prosecutors, and other government officials. Such efforts enable NGOs to provide trainees with useful information and perspectives, grounded in the experience and needs of disadvantaged

populations. They should also include opportunities for NGOs and other civil society actors to inform law reform efforts through advocacy and other modes of engagement.

**86. *Implementation of law is a priority action:***

- Legal implementation (the enforcement of new and current laws) is at least as important as law reform in alleviating poverty and improving governance. Efforts to stimulate more consistent, predictable, and transparent implementation and enforcement of laws should receive priority attention in all projects designed to improve the operations of legal systems or otherwise advance the rule of law. Legal empowerment can contribute to this effort, since it is vitally linked to advancing implementation.

**C. Other Legal Empowerment Initiatives**

**87. *Support projects that feature legal empowerment as their focus, rather than as just an adjunct to work in other fields:***

- Legal empowerment projects can potentially surpass other projects in furthering the goal of poverty reduction. The very nature of legal empowerment work also lends itself to other development priorities, such as demonstrating the value of public participation and helping to advance it.

**88. *Consider activities geared toward reforming selected aspects of legal education:***

- The future of any nation's legal system is forged partly in its law schools. For both legal empowerment and legal reform to thrive, legal education must produce greater numbers of lawyers with a development orientation and associated skills. Legal empowerment work will be complemented by projects that focus wholly or partially on improving legal education, through clinical legal education (which gives students hands-on experience in assisting the disadvantaged) and through the reform of legal education curricula and teaching methods.

**89. *The importance of ongoing research:***

- There has been a shortage of rigorous evaluation and research that can help determine the most effective legal empowerment strategies and activities, as well as inform related efforts in such fields as governance and the rule of law. While the LES and other exercises have been able to scrutinize such strategies and activities to a limited degree, there is a need for more in-depth study and analysis.