

Defining the Framework of Legal Empowerment Initiatives and Measuring Their Impact

The Challenge of Defining Legal Empowerment

In the last 5 years, the development community has focused increasing attention on legal empowerment, a concept originating in the specialized field of law. The development community has adopted the concept into the broader development parlance. Despite this increased attention, there is insufficient consistency, precision, and clarity about what it means, even among nongovernment organization providers of legal empowerment services.

While these descriptive features offer a rough sketch for understanding the concept of legal empowerment, they do not amount to a concrete definition. The phrase, “I know it when I see it,” famously penned by Justice Potter Stewart of the Supreme Court of the United States when considering whether something was obscene language,⁵ may aptly describe the process of finding an appropriate definition for legal empowerment. The 2001 ADB legal empowerment study defined legal empowerment as “the use of law to increase the control that disadvantaged populations exercise over their lives.”⁶



There is general agreement that legal empowerment is broader than legal aid; it goes beyond individual disputes to address issues at a community level. Legal empowerment often involves educating vulnerable groups about legal rights and processes for accessing legal and administrative remedies. At the same time, legal empowerment practitioners acknowledge that education alone is not sufficient; legal empowerment should involve opportunities for vulnerable groups to apply the knowledge and skills imparted to advance their interests. Finally, the very term “legal empowerment” implies that it includes the use of the law, but legal empowerment initiatives frequently include activities that are not inherently law-oriented, such as community organizing or livelihood development.

⁵ *Jacobellis v. Ohio*, 378 U.S. 184 (1964). This case, decided in 1964, held that “national” standards for obscenity determined “community” standards. A Cleveland Heights, Ohio theater had shown a foreign film with an explicit sex scene.

⁶ Footnote 1, p. 7.

During the inception meeting for this regional technical assistance, the project team determined that the 2001 definition would not suffice for the purpose of the project, particularly because this project involves a rigorous effort to assess the impact of legal empowerment initiatives. The team considered that a workable definition needed to be sufficiently concrete to provide a solid basis for determining whether the project interventions achieve the desired outcome of legal empowerment. In reviewing the previous definition, the project team found the concept of “increased control” particularly troubling for a variety of reasons. Having a sense of control over one’s life is a very subjective psychological experience that may be attributed to a wide range of factors. For example, some people may experience an increased sense of control even if their external situation has not changed, while others may become materially better off without an accompanying increased sense of control. Given these ambiguities, the project team was compelled to develop a more tangible and precise definition that is more closely linked to the work of ADB and other international agencies and their government counterparts.

The project defined legal empowerment as “the ability of women and disadvantaged groups to use legal and administrative processes and structures to access resources, services, and opportunities.” This definition reflected an instrumental view of legal empowerment, emphasizing its potential to promote increased access to concrete outcomes. During consultation, some stakeholders expressed concern that this definition was too narrow and might not capture all legal empowerment-related issues. For example, it was argued that the current definition does not include the private sphere and therefore does not extend to domestic violence-related issues. This was a valid concern; however, the definition was developed specifically to monitor and evaluate legal empowerment initiatives under ADB development projects. The definition may not be all-inclusive and generally applicable. But, it serves a particular purpose for this project. Specifically, it provides a basis for measuring outcomes to evaluate whether pilot legal empowerment interventions can effectively improve people’s lives in concrete, measurable ways.

The monitoring and evaluation methodology was designed to measure the impact of the legal empowerment pilot initiatives. There was a particular emphasis on examining whether, in what circumstances, and how legal empowerment projects contribute to the skills, confidence, and strategies that might be expected to improve governance and help alleviate poverty. The evaluation strategy aimed to reach beyond the usual quantifiable measures (such as the number of beneficiaries served or cases filed) to examine what, if anything, these results added up to in terms of sustained, concrete improvements in ways people tried to engage existing governance standards or improve their access to resources, services, and opportunities.

Measuring the Impact of Legal Empowerment

An important feature of the project was the design and implementation of a tailored monitoring and evaluation (M&E) methodology to compare results between sites that received legal empowerment interventions and those that did not.

The project’s definition of legal empowerment guided the design of the pilot interventions and provided the basis for the M&E methodology. This methodology examined the links between four mutually-reinforcing components of legal empowerment: confidence, knowledge, strategies, and outcomes. A detailed M&E protocol was developed to measure the effectiveness of the legal empowerment interventions in these four areas. The research protocol was designed to function in all three countries, while providing enough flexibility to allow for country-specific variations. The challenge was to allow for a certain amount of comparability without sacrificing the sort of precise analysis that would illuminate something about the causal connections between legal empowerment and poverty reduction in a particular place. To strike a more effective balance between comparability, on the one hand, and causality, on the other, a standard survey instrument was developed that

could be indigenized to capture the unique features of the particular host projects and country contexts. The survey instrument was also supplemented by in-depth interviews to give a more nuanced picture of how and why change does or does not occur.

The M&E protocol allowed for baseline and end-of-project data collections.⁷ This enabled project staff to measure the impact of the legal empowerment interventions over the life of the pilot interventions. It aimed to understand how respondents change over time, by asking:

- (i) Are respondents aware of the resources, basic social services, and opportunities available under the ADB loan?
- (ii) Are respondents able to navigate the system envisioned in the ADB loan?
- (iii) Did the pilot project lead respondents to try new strategies?
- (iv) Did the respondents' efforts succeed?

In each of the three countries, the monitoring and evaluation research was conducted in two project sites and one comparable control site. The intervention and control sites were eligible to receive benefits under the larger ADB development initiative. But, only the intervention sites received the complementary legal empowerment activities. By comparing the survey results between project and control locations, the project team could assess the impact of various legal empowerment strategies.

Developing the Research Instrument

After specifying the basic demographic indicators related to gender, education, and household expenditure,

the project team developed the research instrument in three basic steps.

Step One

A series of core questions were drafted to measure: (i) respondent confidence (and the possibility of a change in existing levels of confidence over time); (ii) respondent strategies (and, again, the possibility of change over time); and (iii) local outcomes—defined in terms of a respondent's access to local services (and the possibility of a change in his/her level of access to services over time). Initially, these core questions were framed in general terms to allow for a great deal of "applicability" across all three countries. However, after constructing these general questions, the phraseology within each questionnaire was made more specific to enhance the validity of these core questions in each country context.

Step Two

Each country team was asked to supply four to six questions focused on specific issues addressed in the ADB loan documents pertaining to the loan selected in their country. These loan-specific questions were designed to assess whether local respondents had certain types of knowledge about the rights, responsibilities, obligations, and opportunities outlined in the loan document itself. In particular, the project team wanted to assess whether the legal empowerment interventions under each pilot project succeeded in increasing the loan-specific knowledge of the target community over time.

Step Three

An effort was made to pair the quantitative survey instrument with some supplementary qualitative interviews. The project team was particularly keen to show that, even when the survey instrument was used effectively, the bare statistics would not necessarily report on some of the more illuminating information that was collected. For instance, the project team wanted to show that when a particular respondent selected response code 3 in response to question 14, certain types of explanations and/or justifications may have been offered to explain why response code 3 seemed

⁷ Initially, a midpoint survey was also scheduled. However, in light of various delays associated with engaging relevant ADB project-specific staff in each country, the midpoint survey was skipped (given the overall time frame for the project) in favor of a two-stage (beginning and end) design.

like the best response. These explanations and/or justifications helped the project team understand exactly what response code 3 meant to the respondent. Supplementary qualitative interviews sought to capture some of this missing qualitative data in some instances.

Validating the Research Instrument and Training the Interviewers

Rigorous evaluations are not ordinarily conducted in conjunction with legal empowerment initiatives. Capacity to design and implement sophisticated M&E protocols is usually limited. Prior to conducting the baseline surveys, training workshops were held in all three countries.

Sessions focused on (i) surveyors' understanding of the questionnaires; (ii) appropriate behavior when conducting a survey (for example, explaining that there is no right answer and/or ensuring that interviewers simply ask about local views, opinions, and experiences

without any preconceived notions about what those views, opinions, or experiences should be); (iii) the importance of demonstrating respect toward interviewees (especially interviewees who might otherwise be inclined to see themselves as subordinates); and (iv) the need to be sensitive during interviews.

Research consultants conducted interview simulations and tested questionnaires for possible misunderstandings, unclear questions, validity gaps (owing to cross-national context), and ambiguous terms.

Implementing the Monitoring and Evaluation Methodology

Appendix 3 presents the findings of the M&E methodology in an M&E report. The report documents the data collection process, challenges encountered and how they were addressed, findings and results, and recommendations for the design and implementation of future M&E methodologies.