

APPENDIX 4: TOWARD A LEGAL EMPOWERMENT RESEARCH PROGRAM¹

I. Introduction

1. A central finding of the Legal Empowerment Study is that this and related areas such as human rights, the rule of law, and democracy suffer from a shortage of in-depth research to ascertain impact and lessons learned in a more rigorous manner than is presently the case. Although much time was invested in the LES country reports and supplementary studies, these could ultimately go only a limited way toward illuminating key issues and answering important questions. A considerably greater investment of resources is needed to further flesh out the details of legal empowerment impact and insights. This appendix presents some initial thoughts on elements of one or more regional technical assistance initiatives that ADB or other international development agencies could undertake—or, using a more generic term for the same idea, a research program that other funding sources could support.

2. The proposed program would use surveys and other research methodologies to probe issues that the Legal Empowerment Study (particularly through the supplementary survey research in Bangladesh and the Philippines) has begun to address. The aim is to move from predominantly anecdotal reports of progress to firmer, verifiable data that can guide future legal empowerment work. In particular, the proposed program would: explore whether and how legal empowerment best helps to reduce poverty and improve governance; illuminate important elements of successful legal empowerment work, and disseminate findings in effective ways, for use by donors, NGOs, governments, and other concerned parties.

3. It will quickly become clear that this research program overlaps with the Participatory Evaluation Process sketched in Appendix Three above. In fact, evaluation can in the long run contribute to an ongoing learning process for ADB and other development agencies. The point of separately arguing for a research program is twofold: first, such a program will not hinge on the activities specifically funded by any given institution; and second, such research will be more structured and comparative in nature than that which is linked to evaluating a specific legal empowerment initiative.

II. The Nature of the Problem

4. Despite decades of social justice and development work around the world, the international community still does not know with certainty whether legal empowerment, legal reform, and related rule of law work reduces poverty and improves governance. Nor does it adequately understand the dynamics through which poverty reduction might spur improvements in governance.

5. Many feel that the connection is there. There is a wealth of personal and professional experience to that effect. Those who have interviewed members of disadvantaged groups for consulting or research projects around the world find that they frequently report benefiting from education, mobilization, and advocacy that has a rights-oriented thrust and a poverty-reducing impact. For example, women claim that domestic violence in their communities diminishes

¹ Appendix 4 substantially draws on research and related work conducted by Legal Empowerment Study co-team leader and Overview Report co-author Stephen Golub under an Open Society Institute Individual Project Fellowship. An expanded and modified version of the appendix will be published as a product of that fellowship.

when they organize against it. Beyond immediate gains, this also brings long-term health benefits to them and their children. Farmers speak of success in making agrarian reform (and concomitant increases in income and independence) a reality due to the efforts of farmer paralegals, the community-based organizations (CBOs) to which they belong, or the legal services NGOs with which they partner. The Legal Empowerment Study summarizes related research and experience.

6. Though this information is important and useful, large problems remain. First, the data is not quantified or verified in a way that persuades the many international agency, government, academic, and even NGO personnel who understandably seek harder proof than anecdotal evidence offers.

7. Governments and international agencies inevitably face competing priorities in allocating limited resources. Organizations active in many other development fields document results far better than those pursuing legal empowerment (or democracy, human rights, and rule of law) endeavors do.

8. The second problem with the existing data on legal empowerment and related fields is that it provides too little information about the ingredients of successful work and how such work might help to reduce poverty. What features tend to make legal services more effective? Does combining such services with socioeconomic development work make a difference? What role might community organizing play? What about the various approaches to teaching the disadvantaged about their rights? How do people best get favorable regulations and laws implemented in the many societies where powerful forces routinely ignore them?

9. The list of open questions, and those for which only the most tentative of answers have thus far been obtained, is endless. The Legal Empowerment Study addresses these issues and reaches relevant conclusions in ways that other research has not. While this represents a significant step forward, it is not enough. In key respects, it only scratches the surface. Further research can serve to clarify, verify, and persuade.

III. State of the Field: The Gap Between Anecdotal Reporting and Empirical Inquiry

10. A gap exists in documenting the impact of the many fields that overlap with legal empowerment. On the one hand, a wide array of largely anecdotal reporting (typically by consultants, NGOs, or government officials) illuminates these fields in ways that are useful but, for many audiences, unpersuasive. On the other hand, empirical inquiries (such as survey research, other statistical comparisons, or in-depth studies) concerning social capital or other development fields do not sort out the impact, if any, of legal empowerment and related activities.

11. Anecdotal reporting lacks sufficient rigor for many audiences and purposes. The existing empirical inquiries do not have the legal empowerment, human rights, democracy, and/or rule of law focus most useful for concerned donors, governments, and activists. This accounts for the gap between the two: a paucity of empirical research linking specific legal empowerment activities to poverty reduction.

12. An partial exception to this rule is that USAID has conducted studies of civic education in Poland, the Dominican Republic, and South Africa. But those draft studies say relatively little about human rights education, less about the far broader range of other legal empowerment activities, and nothing about poverty reduction.

13. While the preceding comments are not intended to denigrate the value of anecdotal reporting, it is important to acknowledge the limitations of the anecdotal approach. Consultants' papers for funding organizations or NGOs' write-ups of their own work may feature insightful analysis. Occasionally they reach beyond the purely anecdotal, by reviewing documents or interviewing independent parties regarding impact claimed by NGO leaders. Such reports can stimulate thinking, provide lessons, identify potential models, tell informative stories, and weave patterns out of diverse efforts. Unfortunately, they do not provide the firm data that are a feature of some development fields in which results are more easily quantified.

14. For example, in the words of the World Bank economist overseeing a review of gender literature, "it is important that the people interviewed be randomly selected...[and that an examination of the impact of human rights work] include and control for social capital issues in a survey."² A consultant conducting a two-week evaluation, or an NGO more attuned to action than research, cannot meet these and other methodological challenges.

IV. The Opportunity: Applied Research to Fill the Gap

15. The absence of rigorous empirical inquiry into human rights work's impact should be seen as an opportunity to fill this gap. The precise nature of relevant research would differ from place to place and from issue to issue. It would need to draw on social scientists' expertise and be far more refined than what is sketched below. At least five approaches merit initial consideration. They should not be seen as mutually exclusive. In fact, they may be most useful if combined in various ways.

16. These five potential approaches are:

a. Survey research involving control populations

17. Indigenous research institutes' surveys of statistically significant populations would compare certain results between communities where legal empowerment work has been carried out over time and demographically similar communities where it has not. The variables could include people's knowledge (of their rights), attitudes (toward themselves, their rights, or the government), behavior (as demonstrated by participation in relevant processes), and material circumstances (income, health, shelter, or other measures). As important as the first two attributes are, the latter two are clearer reflections of poverty reduction.

18. To the extent possible, questions in the survey interviews would not focus on the legal empowerment initiatives themselves, since respondents might conclude that favorable comments about those activities are being sought.³ That is, people would not be asked how a given NGO helped them, or about more specific variations on that theme. Instead, the questions would probe their knowledge of certain legal issues, and how they learned what they know. Where respondents are reluctant or unable to state their incomes, the interviews could ascertain material circumstances in other ways. Appropriately worded questions might ask how recently the last family crisis (such as the illness of the principal income earner) occurred and whether the family had the resources to cope with the situation.

² Stephen Golub interview with Susan Razzaz, Economist, Poverty Reduction and Economic Management, Gender and Development Group, the World Bank. June 26, 2000 in Washington, D.C.

³ This is one of numerous ways in which the applied research suggested here would differ from anecdotal reporting. The latter typically relies on questions to which beneficiaries can infer the desired answer—to the extent that beneficiaries are interviewed at all.

19. An important element of this and the other approaches described below is that those surveyed should not primarily be objects of the studies, but rather beneficiaries of them. For instance, the control populations should be in areas into which an NGO is planning to expand or to provide new services. The findings could then provide insights that would benefit the NGO and the survey respondents alike.

b. Survey research involving comparisons of legal empowerment initiatives

20. Research (possibly coupled with surveys involving control populations) would also compare the impact of different types of legal empowerment activities. One of many possible approaches would contrast: specialized legal aid work; legal services integrated with other development activities (such as group mobilization or family planning); and/or development work that does not have an explicitly legal component.

21. Such research should be undertaken with caution. The point is not to affirm or dismiss different activities undertaken in different contexts, for all of these may prove better than no legal empowerment work at all. The findings would benefit both the organizations whose work is studied and the far broader communities of individuals and organizations concerned with development, human rights, democracy, and the rule of law.

c. Comparisons of government records

22. Certain types of issues, such as land tenure, may lend themselves to reviews of government records. As with the surveys, these would contrast impact on communities where legal empowerment work has been carried out extensively over time and demographically similar communities where it has not. Land reform might be a case in point.

23. Of course, not all government documents tell a clear story. Is it a sign of progress that police record more reports of domestic violence in a community where legal services are being provided? Does this indicate that they are more responsive, or simply that more incidents are being reported, or even that abuse has increased? But this suggests that the use of government records be approached carefully, not that it should be avoided.

d. In-depth qualitative research on the community level

24. Selective qualitative research would probe beneath the surface impact, to uncover useful nuances and insights. It would be almost anthropological in nature, consisting of local social scientists' or graduate students' extended residence in or frequent visits to communities where such impact has occurred or where it is taking place.

25. This research would complement both quantitative studies and anecdotal reporting. It would differ from the latter in at least three key respects. First, it would involve building informative relationships with community residents in ways that a consultant's brief visit cannot. Second, carried out by indigenous actors, it would feature far more societal insight than a foreign consultant could bring to bear.

26. Finally, the studies would go beyond NGOs, CBOs, or their partner populations as sources of information. Anecdotal reporting typically stops at the water's edge of interviewing just those three groups—sometimes only the NGOs. The in-depth research suggested here could seek to learn from local elected officials, police, landlords, or environmental officials why they took action in response to disadvantaged populations' pressure or persuasion. It would

build relationships that yield deeper insights from both governmental and nongovernmental actors alike. It could also shed light on what persuades a sympathetic, indifferent, or even resistant government official to take actions that effectively advance the rights of the disadvantaged in the face of powerful opposition.

e. Before-and-after survey research

27. Another device for documenting impact would be to survey selected communities before legal empowerment work begins and after it yields apparent impact. This approach presents certain practical problems, however. One is that there is no guarantee that impact will take place in a given community at the outset of the work. Another is that frequently take years to materialize. This simply weighs in favor of interviews in several communities at the outset, on the theory that subsequent surveys of some of them will yield illuminating results.

V. Organizations, Issues, and Countries

28. The proposed research programs would comprise a series of studies involving scrutiny of a limited number of organizations, issues, and countries. A central consideration is the duration of the organizations' operations. Since impact typically takes a long time to materialize, the focus should be on groups that started working with specific communities several years earlier, regardless of whether that engagement has ended or is ongoing.

29. This in turn has implications for the countries in which the research is conducted. In some societies, legal empowerment activities that might affect poverty are a recent phenomenon. They have not been going on long enough to yield useful data. Another consideration is local research capacity, with a view to making the studies as sophisticated and cost-effective as possible. Yet another is that regime changes may alter the nature of human rights activism or development initiatives in ways that cloud assessment of past impact.

30. With these criteria in mind, Asian countries that would lend themselves to fruitful study include the PRC, India, the Philippines, and Thailand. All feature sophistication in social science and legal empowerment work, and sufficient stability to permit examination of the long-term operations of certain NGOs and possibly government agencies. While PRC might seem a relative newcomer to this group, a number of interesting governmental, nongovernmental, and university-based initiatives have been underway for several years now.

31. The research would not comprehensively address all of a given NGO's or government agencies' operations. A study involving survey research would focus on the NGO's work in a few communities, at most. It would ascertain poverty impact in comparison with control populations and/or other communities served by different NGOs.

32. The issues that would be subject of study should be those that resonate for various audiences. Violence against women, land tenure, and natural resource management and protection are a few categories of widespread interest.

VI. Caveats and Considerations

33. Two caveats and a few related considerations attach to any effort to assume this challenge. First, no single research program can provide all of the answers. It can and should lead to more questions. While the state of research is rudimentary, when compared with other

development fields, this is a key reason for launching inquiries into whether and how impact occurs.

34. While documenting legal empowerment impact is more difficult than demonstrating results in many other fields, its difficulty does not imply that it cannot be done. In fact, the impact of legal empowerment work on poverty reduction may lend itself to scrutiny, as demonstrated in a very preliminary manner by the Legal Empowerment Study's supplementary research in Bangladesh and the Philippines.

35. Nor does such impact always boil down to numbers—this is anything but the case. ADB and other development agencies should not strictly bind themselves to quantitative indicators, as some institutions have done. Quantitative findings should be understood in the context of qualitative analysis.

36. A second caveat: for the proposed studies to be legitimate, researchers must be open to the possibility that the studies may reveal things that they might prefer not to learn. As much as the Legal Empowerment Study suggests that work in this field can reduce poverty and improve governance, more in-depth scrutiny may reveal factors that qualify this hypothesis. Yet even such findings as these may point in constructive directions.

37. As an example from a related field, some early research on Philippine agrarian reform indicated that pro-tenant changes in land tenure did not alter farmers' incomes. Further inquiry indicated that support services could help to achieve this end. Tenurial changes *per se* were important but not sufficient for income growth. Furthermore, even as research may have given pause to pro-reform forces, it also undercut anti-reform elements that had claimed that changing land tenure would decrease farmers' incomes.

38. As a converse of the potential to learn unpleasant truths, much may be learned that is positive in nature. For example, many NGOs actually understate their accomplishments in describing them to donors. Some of this reflects an admirable modesty about their work and a desire to give credit where it is most due—to their partner populations. Sometimes, however, they simply are unaware of what they have contributed to, since they are always busy moving on to the next challenge and have little time to study impact. They may also lose touch with communities that make good use of their assistance.

39. This leads to a final consideration. ADB and other international development agencies aim to build trusting, supportive partnerships with governments and NGOs alike. In scrutinizing aspects of the work of selected organizations, the proposed studies would fortify rather than undercut those relationships. Many groups and agencies across the globe welcome research that will help them to better document impact and to learn about how they might improve their work, yet they often find that donors are reluctant to support such research. The proposed research program would be well received by many governments and legal service providers.

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