



**Legal Empowerment:
An integrated approach to justice and development**

Draft Working Paper

Introduction

Legal empowerment is about strengthening the capacity of all people to exercise their rights, either as individuals or as members of a community. It's about grassroots justice – about ensuring that law is not confined to books or courtrooms, but rather is comprehensible and available to ordinary people.

This paper looks at common features of legal empowerment work, discusses potential development impact, provides examples of interventions and achievements, and briefly sets out the approach taken by Open Society Foundations.

What is legal empowerment?

Legal empowerment work is being done all across the world, under different guises: as legal empowerment *per se*, as access to justice, poverty reduction, women's empowerment, legal aid, human rights, governance, the environment and civil society, among others. It is done in an *ad hoc* manner, and there is relatively little coordination. There are significant opportunities to further develop the field, and to make it more evidence-based.

Different definitions have been given, some of which have different emphases, and all which are fairly compatible. Key elements include:

- *Empowerment.* Unlike traditional rule of law orthodoxies, legal empowerment views the poor and marginalised as partners. It seeks to cultivate the agency and power of affected communities. Legal empowerment does not say “I will solve this problem for you,” but rather “I will work with you to solve this problem, and give you tools with which to better face such problems in the future.”
- *Those who cannot otherwise access law.* Legal empowerment is about power relations. It seeks to help those who, because of lack of power, are unable to seek justice. This may include those without means to access a lawyer, such as the poor and marginalised, women, disabled, minority groups etc, and in some countries may include wide sections of the population.
- *Practical solutions.* Legal empowerment seeks to help people find concrete solutions to their daily justice problems, to demonstrate, case by case, that even in an environment marked by arbitrariness and unfairness, justice is possible. A mother receives support for her children from their hitherto derelict father; a wrongfully detained juvenile is released;

a group of farmers receive compensation from the mining company that damaged their land. This might be through the court but is more often by other means: the focus is on realistic, tangible solutions.

- *A combination of tools.* Legal empowerment encompasses a wide set of tools, flexibly applying grassroots methods such as education, information, organizing, and mediation, similar to those used in social accountability and empowerment, but backed up by the possibility of high level advocacy and litigation when other methods fail. Often, non-judicial strategies will be more effective than litigation in resolving a dispute, especially when relationships need to continue, and the consent or approval of the community or the parties is necessary for enforcement, as for example in many child maintenance cases. Such flexibility enables appropriate solutions to be found even in places where the formal justice system is severely dysfunctional.
- *The use of paralegals and other non-lawyers, linked to lawyers.* The nature of legal empowerment means that, as a matter of both principle and cost-effectiveness¹, paralegals (non-lawyers who acquire legal knowledge and skills that they employ to educate and assist the disadvantaged) often play prominent roles. Legal empowerment programs often combine a small corps of lawyers with a larger frontline of community paralegals or other non-lawyers, who, like primary health workers, are closer to the communities in which they work, indeed often come from and are committed to staying in those communities, and can employ a wider range of tools than lawyers might.
- *A balance between rights and responsibilities.* The rights discourse poses a danger: an emphasis on demands can undercut the ethic of self-sufficiency. Legal empowerment efforts can strike a balance between right and responsibility by supporting community and self-help organizations and by advocating as often and as strenuously for fulfillment of citizen obligation as for insistence on citizen rights.
- *An integrated approach to plural legal systems.* Rejecting both contempt for and romanticization of traditional institutions, legal empowerment engages and respects both traditional and modern legal regimes, builds bridges between them, and advocates for the positive evolution of each.
- *Holding more powerful agents to account.* Legal empowerment seeks to increase the voice of marginalized community members in local governance and public policy. A variety of means can be used, including improving grievance mechanisms to deal with breaches in public service delivery, facilitating involvement of local communities in designing local policies etc.
- *Integrating law into socioeconomic development.* Others beyond the justice sector can benefit from using legal empowerment methodologies. For example, initiatives on natural resources management, public health, education, livelihoods, small business enterprise,

¹ In Ukraine, for example, Community Law Centres providing consultations, secondary legal aid and informational support to clients took 24,089 cases over 10 months in 2011, at an average cost of \$8.70 USD per case. International Renaissance Foundation data, unpublished.

and governance can all be improved by integrating an element of legal empowerment, by strengthening the ability of communities to recourse to suitable justice mechanisms.

It can be considered both a subset and an extension of rule of law development. Legal empowerment fits into rule of law development in that it encourages responsive and transparent institutions, but exceeds rule of law orthodoxy in that it moves beyond the justice sector to focus on improved outcomes in other fields: environment, health, education, among others.

Development Impact

Many theorists have long emphasized the importance of rational and predictable rules and institutions for enabling economic development. Over the years, economists have striven to find empirical evidence proving a causal link. While there are still skeptics,² in large part, there is broad acceptance that such a link exists.³ Rule of law development theory seeks to reinforce this connection, even as it fosters justice, good governance, and democracy as ends in themselves.⁴

The Nobel Prize winning economist Amartya Sen argues that development's ultimate goal is to advance people's freedoms and capabilities.⁵ Legal empowerment draws on this concept by measuring developmental impact not only in economic terms but also as the enhancement of freedoms and capabilities.⁶ At the same time, legal empowerment

² Most of this skepticism centers around the view that a real causal link has yet to be shown because at best, rule of law (however one defines it) provides only an incomplete framework for economic development, much in need of inclusion into a broader strategy for stimulating poverty reduction. See Okezie Chukwumerije, *Rhetoric Versus Reality: The Link Between The Rule of Law and Economic Development*, Emory University Law Review (Volume 23, 2009) pp. 383 see also Stephen Golub, *Beyond Rule of Law Orthodoxy: The Legal Empowerment Alternative* (Carnegie Endowment, 2003); Jeremy Perelman, *Book Review: Beyond Common Knowledge: Empirical Approaches to the Rule of Law*, 47 Harv. Int'l L.J. 531 (2006).

³ For a brief but thorough overview of developments in this area, see Stephen Haggard, Andrew MacIntyre, and Lydia Tiede, *The Rule of Law and Economic Development*, Annual Review of Political Science (2008), pp. 205.

⁴ We acknowledge that rule of law and legal empowerment does not take place in a vacuum but needs to consider the cultural, political, and economic realities on the ground. Economic growth influences and is influenced by many factors and is not inherently akin to poverty reduction.

⁵ Amartya Sen, *Development as Freedom* (Oxford University Press, 1999).

⁶ Various studies have provided frameworks for measuring empowerment: see *Legal Empowerment of the Poor: From Concepts to Assessment* (USAID, 2007) (articulating the need to develop indicators to measure aspects of legal empowerment such as rights enhancement, rights awareness, rights enablement, and rights enforcement); Ruth Alsop and Nina Henderson, *Measuring Empowerment in Practice: Structuring Analysis and Framing Indicators* (World Bank, 2005) (discussing measurable indicators of empowerment such as existence of choice, use of choice, and achievement of choice within the domains of state, market, and society); Dee Jupp, Sohel Ibn Ali, and Carlos Barahona, *Measuring Empowerment? Ask Them* (Sida Studies in Evaluation 2010) (describing an innovative method for measuring empowerment that quantifies qualitative outcomes from people's own analysis of a social movement project in Bangladesh).

enables coalitions of underrepresented interests to engage with the law and use it as a tool for a variety of aims, including economic growth.

While the UN Millennium Development Goals⁷ do not explicitly discuss rule of law or legal empowerment and its benefits, many academics and practitioners have acknowledged that achievement of the MDGs is dependent on strengthening the rule of law and improving access to justice.⁸ For example, the third MDG to promote gender equality is based on a broad international consensus that gender equality and economically empowered women can drive economic growth.⁹ “Women’s participation in the economy has an impact from the household level up to the national and regional economic level.”¹⁰ According to the Africa Partnership Forum, the limited education and employment opportunities for women in Africa have reduced annual per capita growth by 0.8%. Had this growth taken place, Africa’s economies would have doubled over the last 30 years.¹¹

Legal empowerment has also exhibited a potential to bolster the MDGs by improving provision of public services (education, health, etc.) and social accountability of the state. Legal empowerment approaches, such as community-based paralegals, have facilitated greater civic engagement in the governance process, including monitoring government expenditures versus local outputs.¹²

Legal empowerment has a diverse array of potential developmental benefits that contribute to the MDGs and other development outcomes. Program design varies based on local dynamics and country context, but benefits largely include the following:

- *Increasing income and assets.* Reforming and implementing laws involving the poor’s property, labor, and small business rights can enhance their livelihoods and, accordingly, their income and assets.
- *Development as freedom.* As Sen’s concept of development as freedom underscores, legal empowerment enables the disadvantaged to increase their

⁷ See <http://www.un.org/millenniumgoals/> (The eight MDGs are defined broadly as: End Poverty and Hunger, Universal Education, Gender Equality, Child Health, Maternal Health, Combat HIV/AIDS, Environmental Sustainability, Global Partnership); for more discussion on achieving the MDGs see: http://content.undp.org/go/cms-service/stream/asset/?asset_id=2620072

⁸ For more information on the MDGs, see. <http://www.mdgmonitor.org/goal3.cfm>. For information on measuring gender inequality, see: <http://genderindex.org/>

⁹ See generally. <http://genderindex.org/>; *Gender Equality as Smart Economics: A World Bank Group Gender Action Plan* (Fiscal Years 2007-10) also see *Engendering Development Through Gender Equality in Rights, Resources, and Voice*, World Bank Policy Research Report (Oxford University Press, 2001).

¹⁰ Summary Record, OECD Development Centre – UNESCO International Workshop: Gender Equality and Progress in Societies, March 12, 2010.

¹¹ Africa Partnership Forum Unit and NEPAD Secretariat, *Gender and Economic Empowerment in Africa* (2007); Gender and Corruption in Development Cooperation Workshop, Eschborn, 10-11, 2008, GTZ; see also <http://www.gtz.de/en/themen/politische-reformen/demokratie-rechtsstaat/10524.htm>; Pierre-Guillaume Méon and Khalid Sekkat, *Does Corruption Grease or Sand the Wheels of Growth?*, Public Choice vol. 122, no. 1/2 (Jan. 2005) pp. 69-97.

¹² For more information on the role legal empowerment plays in social accountability see, Vivek Maru, “Allies Unknown: Social Accountability and Legal Empowerment”, *Health and Human Rights*, Volume 12, No. 1 (2010), available at: <http://www.hhrjournal.org/index.php/hhr/article/viewFile/205/318>

- freedom and agency through effective participation in family, community, and government decision-making.
- *Gender equity.* Legal empowerment's benefits to women are crucially important in and of themselves—in affirming women's inheritance, citizenship, labor, and other rights, and in reducing gender violence—as well as through the positive ripple effects they generate for children's well-being, productive investment of family resources, and a host of other development goals.
 - *Enhancing social justice.* Women are the largest but by no means the only disadvantaged group that benefits from legal empowerment. This work also addresses unfair and unequal treatment that harms minorities, certain castes, juveniles, children, and other marginalized populations.
 - *Fostering accountability and combating impunity.* Legal empowerment offers avenues for people to hold government officials accountable for their actions. Helping the disadvantaged to act on their rights improves service delivery and development impact. Legal empowerment may be one way of eliciting more effective and sophisticated demands for good governance.
 - *Access to justice.* Improving the functioning of justice institutions requires broadening their accessibility and legitimacy while simultaneously making them more cost- and time-effective. Legal empowerment programs can achieve this by helping the poor to better use the law, the legal system, and legal services to protect and advance their rights and interests.
 - *Improving private sector responsiveness.* Whether confronting exploitation by landlords, corporate corruption, or cruel workplace conditions, the poor benefit when legal empowerment efforts enable them to negotiate with private sector actors from positions of enhanced knowledge and strength.
 - *Making criminal justice more just.* Persons accused of crimes and those incarcerated in jails and prisons often lack the most basic aid in realizing their rights. Legal empowerment initiatives help secure equality of arms and thereby build public confidence in criminal justice systems.
 - *Promoting public security.* By enabling communities to engage more proactively with law enforcement—including in the design, implementation, and evaluation of crime prevention and punishment regimes—legal empowerment improves public security. The value of functional justice and security sectors in producing favorable development outcomes seems patent. Having access to a means of resolving civil disputes also helps ensure that disputes are more likely to remain civil.
 - *Injecting rights into development.* Legal empowerment is a particularly concrete form of rights-based development. In directly helping the disadvantaged to know and act on their rights, legal empowerment injects consideration of rights into all aspects of development.

Examples of Legal Empowerment Interventions and Achievements

Legal empowerment interventions are composed of a range of activities and methodologies that follow the basic approach detailed above. The Asian Development Bank has supported legal empowerment pilot projects in Bangladesh, Philippines, Indonesia and Pakistan over the past decade. They describe interventions as an ascending scale of sophistication grouped into three orders, as follows:¹³

- *First-Order Interventions* include basic legal awareness-raising, or “legal literacy” work that educates the public about its legal rights and obligations, institutional structures of the legal system, and specific mechanisms that marginalized groups can use to advance their interests. This can include:
 - Print, broadcast and internet media; informational flyers, pamphlets and posters; radio and TV outreach; dramatic performances; and wireless/SMS tools.
- *Second-Order Interventions* focus on resolving legal problems and administrative challenges that are faced by marginalized groups. Interventions are community-driven and provide both formal and informal legal services, including mediation. Paralegals are a key mechanism for implementation at this level. They are able to address informal/formal divides, understand local context, are cost-effective, and help ensure programs are in touch with communities.¹⁴ Activities include:
 - Legal counseling and advice; mediation and dispute resolution in communities; administrative procedures such as identification documents, land titling, and business registration; legal aid and representation in the formal system
- *Third-Order Interventions* are designed to have an impact on highest-level policy constraints and systemic factors that shape the circumstances in which legal problems arise. They target persisting inequitable power relations that continually marginalize the poor. Activities include:
 - Public interest litigation; policy and law reform advocacy; legislation drafting; administrative advocacy; justice system reform; corruption monitoring.

There are many efforts and popular movements from around the world that epitomize and have inspired legal empowerment. The work of Black Sash in South Africa against the apartheid regime is a well-known example of lawyers and community paralegals fighting injustice through local organizing, community legal education, advocacy and litigation. The following are recent examples of legal empowerment programming supported by various donors and with varying degrees of success:

- In the mid-1990s a coalition of local CSOs was formed in the **Philippines** to engage implementation efforts of a new Agrarian Reform Law. The coalition

¹³ Asian Development Bank, *Legal Empowerment for Women and Disadvantaged Groups*, Final Report (2009), p. 41

¹⁴ For a more in depth discussion of community paralegals and their benefits, see *Between Law and Society: Paralegals and the Provision of Justice Services in Sierra Leone*, Open Society Justice Initiative (2006), available at:

http://www.soros.org/initiatives/justice/focus/legal_capacity/articles_publications/publications/between-law-and-society-20100310

trained over 1,000 farmers as community paralegals, conducted legal clinics across twenty-two project areas, and helped with administrative procedures for the transfer of over 100,000 hectares. ADB researchers interviewed officials from the Department of Agrarian Reform, solicited survey responses from approximately 400 villagers, and conducted focus groups in local communities. This information was drawn from communities where legal empowerment activities had taken place, and from control communities that were similar in demographics and location but where no legal empowerment projects were implemented. The researchers concluded that in communities where legal empowerment projects were implemented, land reforms resulted in residents with higher levels of productivity, higher incomes, more disposable income, and more investment in their farms.¹⁵ More recently, in 2008, the Philippine coalition helped organize, advocate and file a successful class action case on behalf of hundreds of Sumilao farmers to restore land illegally expropriated by a large corporation.

- Timap for Justice has pioneered community paralegal work in **Sierra Leone** since 2003. Sierra Leone emerged from a brutal civil war in 2001 that had largely taken place in rural areas. There was a critical need for social reparation. Timap is a Sierra Leone NGO that uses a network of local paralegals, supervised by lawyers, to benefit rural and marginalized populations by conducting legal literacy campaigns, providing legal advice and consultation, and addressing higher-level legal and policy issues through strategic litigation and advocacy. Sierra Leone has a scarcity of lawyers and legal institutions, especially outside of the capital Freetown. Timap paralegals are often the only resource for addressing disputes. A study by the World Bank in 2009 found that Timap paralegals filled an important gap in settling disputes that would otherwise go unresolved.¹⁶ According to client interviews, Timap paralegals are more accessible (Timap services are free), help resolve disputes quickly, are culturally aware, are effective at dealing with institutions, and empower communities. Timap operates 13 offices in rural population centers and handles a range of cases including, gender-based violence, divorce, alimony, contract enforcement/debt, theft, assault, land, labor, insulting conduct, and witchcraft.

“Before Timap, people who didn’t have money to sue to the chiefs or court resorted to either fighting or swearing or sorcery as a way of investigating or satisfying their desire to seek justice.” – Imam (Male, 30s), Bo District

¹⁵ Legal Empowerment: Advancing Good Governance and Poverty Reduction, Appendix 1: The Impact of Legal Empowerment Activities on Agrarian Reform Implementation in the Philippines (Asian Development Bank, 2001). Available at:

http://www.adb.org/documents/others/Law_ADB/lpr_2001_Part_2.pdf

¹⁶ *Delivering Justice to Sierra Leone’s Poor*, Justice for the Poor Working Paper Series, World Bank (2009), available at: http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2009/12/04/000112742_20091204184834/Rendered/PDF/518850REPLACEM1arch0Report0Nov02009.pdf

- **In Ecuador** the World Bank funded, as part of a large loan, the creation of five small legal aid clinics in Quito, Guayaquil, and Cuenca to help poor women and their children.¹⁷ The clinics provide legal consultation, representation and dispute resolution services. Over two years (1995-1997) the five clinics helped almost 17,000 poor women - an average cost of \$15 per client. A study on impact found that not only were the clinics less expensive than private lawyers, they were also more effective. Female legal aid clients had a 10.4% increase in probability that they would receive child support and average support payments were up to 50% higher. In about half of the cases where legal aid resulted in child support payments, that payment accounted for 39% or more of what the household spent per month on feeding one individual. This, coupled with a 17% reduction in the probability of suffering from domestic violence following a divorce, results in improved economic conditions for women.¹⁸
- **In Bangladesh**, the ADB conducted a controlled comparison survey to measure the impact of NGO activities in target beneficiary communities. The three NGOs studied employ different community-driven strategies to empower local populations – some less more legal than others. One of the NGOs, the Madaripur Legal Aid Association has become well-respected for community legal service delivery. The study found that all intervention populations experienced reduced socioeconomic vulnerability compared to control populations. All 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. The most sizable gains in these areas were achieved where legal empowerment activities were conducted as part of an integrated development approach that combines legal and socioeconomic development activities; where high levels of women's leadership were sustained through the program period; and where women's direct participation was facilitated by and through community advocacy efforts. Where the strategy focused on mobilizing community advocacy initiatives and engaged public officials, those surveyed expressed greater confidence in governance and public services. They also are more likely to view advocacy for land rights as a positive action. The survey results further suggest that success in securing legally-mandated control of common lands by, or for the benefit of, the poor is facilitated by regular citizen- government engagement. The study also showed that legal empowerment efforts had made measurable impacts on the status and material circumstances of women by restraining the illegal practice of paying dowry. Women's families from populations where legal empowerment projects took place paid dowries less often and in smaller amounts than families from control group communities. In the same study, researchers found that women exposed to

¹⁷ \$256,780 of the \$10.7 judicial reform project went to the legal clinics. The rest built new courts and installed modern case administration centers. Available at: <http://siteresources.worldbank.org/INTEMPowerment/Resources/486312-1098123240580/tool14.pdf>

¹⁸ Impact of Legal Aid: Ecuador (World Bank, 2003).

legal empowerment projects reported having cash savings for emergencies at a much higher rate than women from control communities.¹⁹

- The Open Society Institute has recently started a pilot legal empowerment project in **Ukraine** to help address growing inequality and increased marginalization of rural populations. Ukraine has provided an interesting case study for measuring legal empowerment impacts and justice needs in a transitional country. Thirteen Community Legal Centers were opened in remote factory and agrarian towns in March 2010. Within five months of operations the centers had already received 4,000 petitions for assistance. Over 60% of all cases received by the Centers are disputes centered on land, housing, pension, inheritance, labor, public services (utilities, etc.) and other administrative matters. The project has focused primarily on legal education and dispute resolution to date. Analysis of cases has revealed chronic legal issues affecting the poor. The project will enter a second phase to address long-term benefits to the poor by conducting advocacy campaigns and bringing strategic litigation on the most pertinent and systemic issues at the regional and national level.
- A variety of legal empowerment activities have been supported in **Indonesia** over the past five years. UNDP, ADB and the Justice for the Poor Program at the World Bank have supported work to empower women's groups, extend paralegal counseling services to marginalized communities, and empower citizens to access and make demands for responsive public services.²⁰ The Indonesia Legal Aid Foundation (YLBHI) is a long-standing organization that has lead legal empowerment approaches and advocated for adoption of a publicly-funded legal aid system. YLBHI provides legal counseling and representation to the poor and trains marginalized communities, including farmers, laborers and the urban poor, to work as paralegals. YLBHI trainings and activities have provided a range of benefits not easily captured with quantitative case data. One particular story of Mbak Rini might be the most insightful:

Mbak Rini was trained by YLBHI as an urban paralegal. She is the only woman leader of the sidewalk traders association *Paguyuban Depan Mesjid Baiturahman* (PKL) in Semarang city. In 2000, the city government executed Regional Regulation No. 11/2000, an order expelling the sidewalk traders in the area where she ran her small

¹⁹ Legal Empowerment: Advancing Good Governance and Poverty Reduction, Appendix 2: The Impact of Legal Empowerment on Selected Aspects of Knowledge, Poverty, and Governance in Bangladesh: A Study of Three NGOs (Asian Development Bank, 2001). Available at:

http://www.adb.org/documents/others/Law_ADB/lpr_2001_Appendix2.pdf

²⁰ See. Asian Development Bank, *Legal Empowerment for Women and Disadvantaged Groups*, Final Report (2009), at <http://www.adb.org/Documents/Reports/Legal-Empowerment/default.asp> ; *Legal Empowerment of the Poor: Lessons Learned from Indonesia*. UNDP, YLBHI, Commission on Legal Empowerment of the Poor (July 2007), available at:

<http://www.undp.org/legalempowerment/pdf/Indonesia.legal%20empowerment%20of%20the%20poor.pdf>

; Justice for the Poor World Bank program documents available at:

<http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/EASTASIAPACIFICEXT/INDONESIAIEXTN/0,,contentMDK:22352187~pagePK:141137~piPK:141127~theSitePK:226309,00.html>

business. This unfair practice compelled her and her peers to establish PKL and through collective advocacy and adept negotiation successfully challenge the regulation to include exceptions for PKL and others. Mbak Rini did not stop there. She discovered that the law called for exemptions to mandatory educational payments for poor families. The practice of school officials was different. Mbak Rini organized other parents around the issue and reported the case to the Semarang City government. The school was sanctioned and payment requirements for poor families eliminated.²¹

- The work of a local organization in **Zimbabwe** illustrates similar qualitative impact of legal empowerment work around issues of communal land tenure. According to Zimbabwean law, communities do not own the land and natural resources in their locality. Most communities live on communal land that has been designated as State land since independence.²² Therefore the State has exclusive ownership and use of all resources, but grants usufructuary rights to communities through the Rural District Councils (RDCs). RDCs have management authority over all land and natural resources located in communal areas. Once they are registered as legal entities communities can engage with the RDCs in order to obtain management authority over the natural resources within their area and challenge land laws, policies and decisions that do not promote their interests. The Zimbabwe Environmental Law Association (ZELA) worked with one such community in southern Zimbabwe to register them as a trust and formed the Chibhememe Earth Healing Association (CHIEHA). Through a long, consultative process with government ministries and the local RDC the CHIEHA gained control over management of its natural resources within and along the Great Limpopo Transfrontier Park.²³ CHIEHA has now become an important voice for communities of the Chibhememe region and is able to influence and negotiate with the government in the interest of the community. CHIEHA has also mobilized funding for better management and contributed to development of benefit-sharing mechanisms for the region.²⁴
- In **Bolivia**, a USAID-funded project helped create a network of thirteen community justice centers around the country. The centers are based in poor communities and provide mediation, legal counseling, legal awareness, and generally serve as a portal to the formal justice system. The centers have been highly successful in engaging local communities through outreach, volunteer

²¹ *Legal Empowerment of the Poor: Lessons Learned from Indonesia*. UNDP, YLBHI, Commission on Legal Empowerment of the Poor (July 2007), available at:

<http://www.undp.org/legalempowerment/pdf/Indonesia.legal%20empowerment%20of%20the%20poor.pdf>

²² There are numerous examples across the developing world of this type of legal relationship where the State has exclusive ownership over land and natural resources. Most are the result of persistent colonial legal orders that benefited the resource extraction activities of colonial powers.

²³ GLTP extends into South Africa and Mozambique where communities have gained similar management control.

²⁴ From *Legal Empowerment in Practice: Using tools to secure land rights in Africa*, ed. Lorenzo Cotula, Paul Mathieu. IIED, FAO (2008), available at: <http://www.iied.org/pubs/pdfs/12552IIED.pdf>

programs and by drawing staff from the area. Since 2004, the centers have attended to over 150,000 cases and directly trained over 48,000. However, the Bolivia project also provides a cautionary tale on legal empowerment programming. The project was designed to be implemented by an international NGO in partnership with the Ministry of Justice. The Ministry approved project expenditures and activities. As a result, the centers were strictly service providers and were not allowed to strongly advocate on behalf of communities on many policy reform issues. They were also not allowed to bring cases against the government for denial of rights. In 2009, four months before national elections, the Ministry usurped management of the centers and fired all staff, community mediators and lawyers. They were replaced by inexperienced persons widely considered beneficiaries of political nepotism. An essential aspect of legal empowerment programming is insulation from political control. This affects projects in two ways – it allows for advocacy and litigation activities contrary to entrenched, sometimes government-aligned interests and it ensures that project implementation, in its many facets, is responsive to and driven by the local communities it serves.²⁵

Open Society Foundations: what role does it play?

The Open Society Foundations network has been supporting CSOs to undertake legal empowerment activities for many years. In 2009, the Open Society Justice Initiative established a dedicated Global Legal Empowerment Initiative which has been working to build a global movement for legal empowerment. In doing so, it is:

1. Supporting the establishment of a new organization on legal empowerment, Namati, to implement and evaluate innovative legal empowerment interventions.
2. Developing a global network of legal empowerment practitioners, including civil society, multilateral agencies, scholars and governments, facilitating shared learning and supporting capacity building.
3. Developing country pilot projects – supporting innovative country-level, civil society-based projects that explore approaches to legal empowerment programming across a range of thematic issues, target beneficiaries, and socio-political contexts.
4. Working to improve investment by a range of donors, through improving research on legal empowerment and exploring coordinated financing mechanisms.

²⁵ See. Tiernan Mennen, “The Mystery of Legal Empowerment: Livelihoods and Community Justice in Bolivia”, No. 6, in *Legal Empowerment Working Papers*, IDLO (2009), available at: http://www.idlo.int/publications/LEWP/Mystery_LEP.pdf