

Legal Empowerment Evaluation: An Initial Guide to Issues, Methods and Impact¹

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March 2012

Overview

Recent years have seen a growing focus on legal empowerment (LE)—the use of law or rights specifically to benefit the disadvantaged—by international development agencies, foundations, policy institutes and nongovernmental organizations (NGOs). This has justifiably generated an increased interest in identifying ways of ascertaining its impact.

This Guide seeks to contribute to the evolving understanding and discussion of this challenge. Its four central purposes are to:

- address selected issues concerning LE (and much other development) evaluation;
- suggest some ways of evaluating or otherwise reviewing LE work;
- describe some kinds of LE impact; and
- provide examples of actual LE impact, coupled with the research methods employed to ascertain it.

This paper springs from many discussions I have had over the years with a diverse array of colleagues, ranging from rural NGO personnel working with impoverished women to World Bank officials in that organization's headquarters. Most seem eager to better grasp or present what their or others' LE work might be accomplishing. With limited exceptions, they:

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- do not have access to the sophisticated monitoring and evaluation tools employed by large development agencies for fields that overlap with legal empowerment (e.g., women’s empowerment, governance, the rule of law);
- have not found (even where they do have access) that these mechanisms address all of their needs regarding the evaluation and review of LE and related activities;
- feel that the bureaucratic or academic orientations of such tools miss important elements of LE processes and impact; or
- do not understand the sometimes difficult, specialized terminology the tools employ.

The main intended audiences for the paper, then, are persons who are not experts in evaluation, but rather LE practitioners and donor personnel working with them. More broadly, the audiences include NGO staffs that carry out the bulk of legal empowerment work around the world, officials of agencies that fund LE, government personnel supportive of this work, and other groups and individuals concerned with it. The document aims to provide them with some initial guidance on basic matters to consider in seeking to ascertain impact in this emerging field and related endeavors. It is not intended as a substitute for development agencies’ evaluation mechanisms or expertise, but rather as a far-from-comprehensive complement. I have prepared this, then, as someone who does not specialize in evaluation, for similar non-specialists.

Accordingly, the Guide does not target evaluation experts. And quite intentionally, the terminology I employ does not match all of that used by experts, geared as this document is mainly toward evaluation laypersons. The paper nevertheless may be of modest utility to some such experts who are unfamiliar with LE work or who lack grassroots development experience. After all, knowledge of the goals and dynamics of a field, much less an emerging one such as legal empowerment, is essential for sound evaluation planning.

As the analysis unfolds in this Guide, it will become evident that the kinds of methodologies and impact discussed here reflect a theory of change about what can be done to promote economic, social and political progress. Unlike the theory permeating these pages, some schools of thought display a kind of development hubris about international agencies’ power to promote such progress. They assume that sufficient inputs (aimed at enhanced investment climates or social stability, for example) can bring about sweeping societal change.

In contrast, most approaches to legal empowerment take the more modest but realistic view that societal change is not nearly so linear or subject to foreign influence and funding. They instead see it accruing in various ways, sometimes unpredictable (as in the Arab Spring), to which development agencies can make useful but seldom determinative contributions. Legal empowerment—like any approach to development—at best brings about progress for specific populations and policies. Overall societal change is certainly worth assessing. But the impact of any given organization, initiative, project or program is far more granular. This Guide addresses that kind of impact.

I divide the Guide into two parts: *General Considerations* and *Specific Elements and Examples*.

Part One: General Considerations comprises four sections:

I. Introduction

- This section discusses the rationale for the Guide.
- It sets the stage for the items and issues the paper addresses.

II. What is Legal Empowerment?

- Here the paper discusses a definition of legal empowerment.
- It considers LE work's key benefits and attributes.
- Finally, there is a summary of important kinds of LE activities.

III. Threshold Considerations: This Guide

- This section explains why I use the terms “evaluation” and “review” interchangeably for the purposes of this paper.
- The discussion delves a bit further into the matter of the Guide's intended audiences.
- It suggests why the focus here is more on applied rather than academic research.
- The section concludes by providing some brief background on the preparation of the paper.

IV. Threshold Considerations: Evaluation in Context

- The discussion starts by emphasizing that the political economy of a country, community and issue must be taken into account in evaluating LE initiatives.
- It then places LE evaluation in a different kind of context, pointing out that challenges and obstacles to evaluation cut across many development fields and other endeavors.
- The focus then shifts, somewhat critically and in some depth, to the “gold standard” of development evaluation, randomized control trials.
- Finally, the section briefly considers other standards of proof, and why they may be acceptable substitutes and in some instances even preferable alternatives to the “gold standard.” It points out that crucial decisions involved with public policy, court verdicts, investments and a host of other matters unavoidably hinge on less rigorous standards and methods than randomized trials. It argues that the same should apply to evaluating legal empowerment and many related fields.

The Guide's next part then proceeds to categorize and discuss elements of LE evaluation in a more focused manner. *Part Two: Specific Elements and Examples* consists of four sections:

V. Types of Legal Empowerment Impact

This section sketches a number of categories of potential LE impact. Though by no means comprehensive, the list and descriptions provide some sense of the kinds of advances that can constitute such impact. The discussion and concomitant lists are broken down into subsections. The first, in a very inexact ascending order of importance, constitutes positive (and

occasionally overlapping) changes for disadvantaged populations, in terms of the *Attributes, Capacities and Circumstances of Individuals, Groups and Communities*:

- Legal Awareness
- Social/Historical Awareness
- Legal Knowledge
- Other Kinds of Knowledge
- Legal Skills
- Attitudes
- Behavior
- Negotiating Strength/Political Power
- Legal Status
- Legal Implementation
- Material Circumstances

The second subsection pertains to disadvantaged people's positive engagement with and effects on *Government Policies and Actions*. These categories of impact are listed here:

- Participation in Government Deliberations
- Input into Formulation of Potential Laws and Policies
- Legal, Institutional and Policy Reform
- Government Accountability
- Contributing to Legal Implementation
- Other Government Actions

The third, relatively brief subsection addresses a few *Other Types of LE Impact*, with respect to:

- Policies and Practices of Foreign Governments and International Agencies
- Influential Individuals, Businesses and Domestic Organizations
- "Keeping the Flame Burning": Sustaining Important LE Initiatives

The final subsection addresses positive changes that do not represent legal empowerment impact *per se*, but that do pertain to *Legal Empowerment Organizations' Capacities and Status*:

- Internal Management Capacities
- Externally Oriented Capacities
- Official and Informal Status

VI. Evaluation Mechanisms/Methodologies

This section covers a range of mechanisms or methodologies that have been or could be used in evaluating LE efforts. The menu is far from exhaustive. But, in addition to summarizing certain approaches employed by social science research, it also seeks to capture some other practical ways of gathering and analyzing relevant information.

The section is divided between quantitative and qualitative mechanisms. The former include:

- Before/After Surveys of Participants
- Surveys of Broader Populations
- Control/Intervention Group Surveys
- Household Surveys
- Reviews of LE Organizations' Records
- Reviews of Government Records

The qualitative mechanisms include:

- Interviews and Discussions with Participants
- Interviews and Discussions with Non-participants
- Focus Groups
- Interviews Based on LE Records
- Observation of LE Offices and Activities
- Interviews with Knowledgeable Third Parties
- Chronological Connection
- Textual Analysis
- Independent Written Documentation
- Organizational Reviews
- Case Studies
- Triangulation

VII. The Evaluation Process.

This section addresses selected facets of evaluation planning and reporting, including the challenge of ascertaining unanticipated impact and the kinds of questions most LE evaluations should take into account.

VIII. Examples of LE Reviews, Evaluations and Impact

This section discusses selected examples of studies that review various LE initiatives' processes and impact.

- It begins by describing the work and impact of an NGO (staffed primarily by paralegals) in Sierra Leone that facilitates dispute resolution and provides other kinds of justice services. The NGO is serving as a potential model for the introduction of a government legal aid program and for related efforts elsewhere in West Africa.
- The focus then shifts to a project that improved the delivery of health services in Uganda via communities becoming aware of the goods and services public dispensaries were legally obligated to make available. This integration of social accountability with legal

empowerment resulted in various kinds of impact—dramatic drops in infant mortality, for example.

- The next initiative that the section addresses covers the work of a Philippine legal services NGO that trained paralegals to help fellow farmers benefit from the country's agrarian reform law. The study of the NGO's work used three research methodologies to suggest that the organization had in fact contributed to progress in implementing the law.
- Complementing the aforementioned Uganda example, the next discussion further examines how legal information and services can be integrated into socioeconomic development efforts, how that integration has been researched, and the kinds of impact the research revealed. More specifically, it details four separate studies of LE-oriented impact drawn from initiatives in three countries: Bangladesh, Indonesia and Senegal. It also illuminates a fifth LE initiative's work and impact by drawing on a research institute's paper that had in turn compiled academic and donor studies of a Bangladeshi NGO.
- Finally, the section closes by summarizing the findings of three independent evaluations of a paralegal services NGO in Malawi that has assisted prisoners detained for extensive periods without trial. That NGO has been a model for similar organizations elsewhere in Africa and beyond.

Part One: General Considerations

I. Introduction

How do we know whether what we are doing is doing any good? This is a core concern of many fields, not least international efforts to reduce poverty or build open societies. But it is especially salient for the relatively new field of legal empowerment (LE),³ in which these two important endeavors overlap.

Recent years have seen a growing focus on LE by such organizations as: the Open Society Foundations, the U.K. Department for International Development, the U.S. Agency for International Development, the U.N. Development Programme, the World Bank, the Asian Development Bank, the International Development Law Organization, the Food and Agriculture Organization; several policy institutes and academic centers; and numerous nongovernmental organizations (NGOs). This has justifiably generated an increased interest in identifying ways of evaluating or otherwise reviewing legal empowerment impact.

This Guide seeks to contribute to the evolving understanding and discussion of this challenge. Its four central purposes are to:

³ Though the field of legal empowerment is new, some of the activities constituting LE have been undertaken for decades though under other headings or they closely overlap with related work. These include legal services for the poor, developmental lawyering, alternative lawyering, public interest lawyering and social accountability. The broad, multi-faceted concept of legal empowerment is increasingly used in various forums because it ties together the common elements that cut across these categories.

- address selected issues concerning LE (and much other development) evaluation;
- suggest some ways of evaluating or otherwise reviewing LE work;
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- provide examples of actual LE impact, coupled with the research methods employed to ascertain it.

I have prepared this paper as someone who does not specialize in evaluation, for similar non-specialists. The main intended audiences for the paper, then, are persons who are not experts in evaluation, but rather LE practitioners and donor personnel working with them. More broadly, the audiences include NGO staffs that carry out the bulk of legal empowerment work around the world, officials of agencies that fund LE, government personnel supportive of this work, and other groups and individuals concerned with it. The paper aims to provide them with some initial guidance, in relatively non-technical language, on matters to consider in seeking to ascertain impact in this emerging field.

Accordingly, the Guide does not target evaluation experts. It nevertheless may be of at least limited use to some such persons who are unfamiliar with LE work or who lack grassroots development experience. After all, knowledge of the dynamics of a field, much less an emerging one such as legal empowerment, is essential for sound evaluation planning.

Finally, the Guide may be relevant for various segments of the broad development community by offering modest, practical evaluation approaches not dictated by what one scholar has characterized as the predominantly quantitative, indicator-driven “economics imperialism,” (the increasing influence of economics on other social sciences), which permeates the field of law and development as well as much other development discourse and policy.⁴ Similarly, it supplements the top-down methodologies often employed to assess or measure phenomena relevant to legal empowerment. As noted by a UNDP paper on this matter:

In many ways Legal Empowerment is a relatively new concept, and there are few methodologies to directly measure it. However, many of the existing development assessments implicate aspects of Legal Empowerment. These indicators tend to be static, and identify the status, size, prevalence, or efficiency of a system or phenomenon.

Many other assessments operate similarly, providing macroeconomic measurement, or broad analysis of justice and rights systems... What all broad comparative assessments have in common is their top-down perspective, and, to varying degrees, neglect for the importance of individual experience in making the assessment... However, to really measure Legal Empowerment, a more subject-centric approach is needed, one which examines policies, institutions, and organizations only to the extent that, and at the moment when, they impact the lives of the poor, marginalized, and vulnerable... In short, traditional, broad assessments are not capable of a narrow analysis of the discrete issues

⁴ Amanda Perry-Kessaris, “Prepare your indicators: economics imperialism on the shores of law and development,” *International Journal of Law in Context* 7,4 (Cambridge: Cambridge University Press, 2011), pp. 401-421.

characterizing a particular Legal Empowerment deficit affecting a specific population in a defined region.⁵

The point is worth noting for reasons that include but are not limited to measurement and evaluation. As the analysis unfolds in this Guide, it will become evident that the kinds of methodologies and impact discussed here reflect a theory of change about what can be done to promote economic, social and political progress. Unlike the theory permeating these pages, some schools of thought display a kind of development hubris about international agencies' power to promote such progress. They assume that sufficient inputs (aimed at enhanced investment climates or social stability, for example) can bring about sweeping societal change.

In contrast, most approaches to legal empowerment take the more modest but realistic view that change is not nearly so linear or subject to foreign influence and funding. They instead see it accruing in various ways, sometimes unpredictable (as in the Arab Spring), to which development agencies can make useful but seldom determinative contributions. Legal empowerment—like any approach to development—at best brings about progress for specific populations and policies. Overall societal change is certainly worth assessing. But the impact of any given organization, initiative, project or program is far more granular. This Guide addresses that kind of impact.

II. What is Legal Empowerment?

Before discussing LE evaluation processes and impact, it might be useful to review a definition of the concept as well as some of its activities and benefits.

A. A Core Definition

There are numerous definitions for legal empowerment, some rather in-depth but all fairly compatible. A core definition emerges from consideration of these various descriptions of the concept: *Legal empowerment is the use of law or rights specifically to benefit the disadvantaged.* This definition embraces legal empowerment's key elements:

- “*The disadvantaged*” features the poor, but also includes women, minorities, certain castes, indigent criminal defendants, victims of human rights abuses and other populations afflicted by discrimination or other injustices. Alternative terms for such persons include “marginalized” and “excluded.”
- “*Law*” involves not just legislation and litigation, but the many regulations, ordinances, processes, agreements and customary justice systems that constitute the law for the disadvantaged. Enforcing legal rights and obligations involving land tenure, livelihood and government services often involves ministries, local governments and/or regulations more than courts and legislation. For the rural poor in many countries, village-based customary systems constitute the law far more than distant courts whose processes are incomprehensible or unaffordable.

⁵ Adam L. Masser, “Measurement Methodologies for Legal Empowerment of the Poor,” Discussion Paper 6. (Oslo: UNDP Oslo Governance Centre, 2009), p. 7.

- “*Rights*” most typically spring from law, be it international, national or local in jurisdiction. But to understand how LE often operates in practice, it can be useful to distinguish between the two concepts. People may have a right to expect governments, businesses, other organizations (including NGOs), influential individuals and programs funded by development agencies to act in certain ways, even if the legal bases of the rights are indirect or unstated. For instance, rights pertaining to democratic practices, investment agreements, corporate governance rules, international financial institution loans and government service delivery have legal roots even where the relationship between such rights and roots is not invoked in LE activities.
- “*Specifically*” captures the reality that legal empowerment features activities and strategies that focus on the disadvantaged. In many contexts these involve the often overlooked concept of *legal implementation*—that is, getting relatively good laws that exist on the books enforced on the ground for the benefit of the disadvantaged. But LE also includes legal reform efforts exclusively or mainly aiming to benefit disadvantaged populations.
- “*Benefit*” typically translates into the disadvantaged gaining greater control over their lives. This control takes many forms, depending on the population and problems in question: street or market vendors operating with less police harassment; farmers securing improved land tenure; indigent criminal defendants obtaining due process; women achieving decreases in domestic violence or increases in inheritance rights enforcement; communities obtaining delivery of medical, educational or other government services to which they are entitled; and the greater economic security that flows from the poor increasing their income or assets. It should be emphasized, however, that “control” is a relative term—given how protracted the process of change can be, the disadvantaged may become stronger in only an incremental manner, with setbacks along the way.

B. Key Benefits and Attributes

An October 2009 Statement of Principles prepared and circulated by the Open Society Institute (since renamed the Open Society Foundations) nicely sums up key benefits and attributes of LE. I quote the relevant section from that Statement here:

- *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 Amartya Sen’s concept of development as freedom underscores, legal empowerment enables the disadvantaged to increase their 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.⁶

Though cast in a very general manner, many of these benefits and attributes translate into specific categories of legal empowerment impact. Those categories are listed and discussed in Section VI of this paper.

C. Some Legal Empowerment Activities

⁶ Open Society Institute, “Statement of Principles,” (unpublished) October 2009, pp. 1-2.

These LE benefits and attributes translate into a number of more specific activities. Some of the items listed here are described in more detail later in this Guide, particularly Section V, as it explicates examples of LE evaluation and impact. LE activities include:

- A farmers' association helps its members gain greater control of their land, whether through outright land titles, state recognition of traditional land arrangements or other tenurial improvements, thus increasing the farmers' incomes or assets.
- A group of women use law, organizing and advocacy to combat domestic violence by persuading police, other government personnel or local leaders to take the problem seriously, thus enhancing the physical security and independence of wives in their community.
- Human rights activists invoke international, national or local laws, sometimes through the judiciary but also through use of media and the court of public opinion, to restrain government abuses.
- Parents learn how to register the births of their children, ensuring their access to citizenship, education and government services later in life.
- A government public health program enables impoverished beneficiaries to understand and act on their rights to basic medical services, thus reducing infant mortality in areas where health clinic personnel previously were not doing their jobs and medicines were going missing.
- An NGO works with grassroots groups to gradually make traditional justice systems less gender-biased and otherwise fairer.
- Market vendors negotiate with local governments the right to operate legally and free of police harassment, ending their fear of losing their businesses and livelihoods.
- Paralegals (non-lawyers with specialized legal knowledge and skills that enable them to educate or aid disadvantaged people concerning law-oriented issues) help indigent defendants, often jailed unjustly and/or for years without trial, obtain fair hearings or their freedom.
- Any number of disadvantaged groups (including but not limited to ethnic minorities, human immunodeficiency virus victims, the urban poor and impoverished women) and/or NGOs that work with them partner with public interest lawyers to win court cases on a trial, appellate or even precedent setting level.
- Similar partnerships achieve legislative, regulatory, policy or other victories in local, national or international forums.

As evinced by these LE activities, benefits and attributes, legal empowerment often operates on a grassroots level to get laws and policies implemented or to otherwise advance the rights of and benefits for the disadvantaged. As noted previously in this guide, this constitutes the crucial but often overlooked category of work that can be called *legal implementation*. But legal empowerment also can achieve legal and policy reform—which of course is important in and of itself, but much more so when reforms are actually implemented.

III. Threshold Considerations: This Guide

A. “Evaluation” and “Review”

I use the terms “evaluation” and “review” interchangeably in this paper because the impact and methodologies discussed here often fall under the rubric of both. It is important to note, though, that in theory and often in practice the two are employed in different ways, with the former implying a far more rigorous approach distinguished by a number of criteria (that may vary from donor to donor).

Nevertheless, for legal empowerment and much other development work the employment of carefully calibrated evaluations is still the exception to the rule. Many assessments of such work are called evaluations even though they fall short of satisfying those criteria. What’s more, funding decisions typically are made on the basis of what is or should be called reviews, be they formal or informal, so the concept remains relevant to many development agencies, foundations and other sources of funding.

There are additional reasons for my not distinguishing between the two terms here. First, “evaluation” can have certain specific or negative implications for organizations whose work is being assessed. It sometimes is interpreted to involve ambitious, expensive research beyond the capacities or interest of some funding providers or recipients. Or it can be seen as a process that results in a “thumbs up/thumbs down” judgment. The literal definitions of the term are not problematic, then. But the word’s connotations can be counterproductive.

Second, the broader term “review” embraces evaluation, but also covers other processes that some development agencies might consider less in-depth but nevertheless worthwhile. Naturally, whether the differences in nuance between the two terms really makes a difference in reality will vary from context to context.

In consideration of these factors, I sometimes have used the term “strategic review” in examining the work of an NGO or program for a funding source. Carried out by a single consultant, the activity falls far short of what development agencies can and should consider full-fledged evaluations. Operating with limited resources, this exercise looks at selected aspects of the operations in question and often focuses partly or mainly on suggesting how the funding recipient (and sometimes the donor) can adjust strategies and activities to try to achieve greater impact down the line.

Having said all this, greater rigor in scrutinizing development projects, programs and initiatives certainly is welcome, as is more scrupulous attention to what does and does not constitute an evaluation. Most of the observations and suggestions offered in this Guide, though, apply to evaluations and reviews alike.

B. The Intended Audience: LE Practitioners and Donors

Evaluation of LE initiatives and many other activities can be a complex matter sometimes involving very technical terminology when they are funded by large international development agencies. This paper seeks to simplify such terminology to the extent possible. As already noted, it is not geared for evaluation methodology specialists or social scientists. Rather it aims to benefit LE practitioners—by which I mean the persons and organizations (including the

disadvantaged themselves) engaged in carrying out, documenting, analyzing and reviewing LE work—and the donors that fund them. The paper is also geared for consumption by governments and by other organizations and individuals concerned with LE.

In taking this approach, I by no means wish to deny the importance of evaluation expertise, social research methodologies, the vocabularies they employ or the rigor that they display. Without claiming such expertise myself, I try to translate aspects of evaluation and research into laypersons' terms as much as possible.

With this consideration in mind, the paper does not delve into the intricacies of indicators, performance monitoring systems, logical frameworks, results trees or other tools that large bilateral and multilateral international donors typically employ for monitoring and evaluating activities they fund. I nevertheless hope that parts of this paper may prove useful for NGO personnel, donor officials and other persons that must employ such data-gathering approaches. Whether and to what extent such approaches are well suited to legal empowerment, civil society activities, efforts to build open societies and all facets of international development is a discussion best left for another day.

C. Applied as Opposed to Academic Research

This Guide substantially focuses on how to ascertain whether and to what extent legal empowerment strategies and activities can contribute to various categories of LE impact. As such, it is about what could be called the “effect of cause” relationship—what if any impacts (effects) flow from an LE initiatives (causes)? It is very much about applied research on what strategies and activities are and are not effective in yielding impact, pointing toward prescriptions for addressing obstacles to open societies and development.

In contrast, more purely academic research often concentrates on “causes of effects”—starting with observed phenomena (effects), it seeks to determine what caused them. The research is more descriptive in nature, oriented toward identifying causes more than spurring effects.

This is not to say that the two approaches are never integrated. But their two orientations should be distinguished.

D. The Preparation of the Paper

In putting together this paper, I draw in part on my own background in legal empowerment. That background includes conducting numerous evaluations of and research on what could be considered LE work, even where it typically has gone by other names. These reviews have included site visits; interviews with NGO, law school or other personnel carrying out the work; additional interviews with their partner populations/clients and other persons; and document reviews.

Evaluations of this nature, often carried out by just one person (such as myself) or a few individuals over a period of days or weeks, are adequate for some purposes but fall short for

others. The paper aims to explore some complementary or more in-depth approaches to gathering information.

Toward that end, in preparing the paper I have consulted with evaluation specialists and other colleagues at the United Nations Development Programme, the World Bank, the U.S Agency for International Development, the Ford Foundation and the University of California at Berkeley. Again, however, the point has been to benefit from their perspectives rather than to develop a treatise on evaluation.

IV. Threshold Considerations: Evaluation in Context

A. Political Economy: The Necessity of Context-Specific Standards

It does (or at least should) go without saying that initiatives geared toward building open societies or reducing poverty must take into account the political economies of the specific countries, communities and issues involved. Local politics, economics and culture shape what is possible or productive. Teaching international human rights may be an important priority in a country where national laws condemn women to be second class citizens (or worse); in many other contexts, women may be more interested in specific ordinances, regulations or laws that they can use to their advantage. Integrating rights-oriented monitoring and advocacy into socioeconomic development programs that deliver health or school services to the impoverished can make such services more accountable and effective in many situations; in others, it may take years of spade work to get to the point where such integration is possible.

The same point applies to evaluation. The standards and methodologies appropriate to one context may be inappropriate to another. Teaching women their rights in many parts of Brazil may be only a basic building block to helping them organize around, advocate for and achieve the legal implementation of those rights. In many parts of Afghanistan, even such rights-oriented education can be very difficult or impossible to attempt. Thus, the standards that apply to gauging the success of a Brazilian rights-oriented initiative may be higher than one in Afghanistan.

Similarly, the research methods must vary according to context, along with expectations about what findings such methods can yield. An in-depth case study of how a legal or policy reform came about in South Africa, and most notably whether NGO advocacy or university research contributed to it, may be far more possible than one in Tajikistan. The difference is not simply that such reforms are more common in South Africa; in addition, governmental operations are far less transparent in Tajikistan.

B. Evaluation Challenges Cut Across Various Fields

In considering how to evaluate LE work, responsible professionals confront the problem of documenting impact in a relatively new field. We should take this challenge seriously. But we also should realize that the challenge of demonstrating impact cuts across many other endeavors.

Take, for instance, the example of a well-established international development field: microfinance. For decades it was taken as a given by many development professionals that microfinance plays a tremendous, overwhelmingly positive role in raising many millions out of poverty. However, recent years have seen a plethora of critiques⁷ challenging these conclusions and the research underpinning them. My own discussions with experts on this topic and on development evaluation further suggest that the impact of microfinance on poverty alleviation is somewhat unproven.

My point here is certainly not to dive into the fray of controversy regarding microfinance. Rather, it is to illuminate the reality that even in such a well-established development field the evidence is far from complete regarding its impact, whether positive or negative. In view of that reality, those of us who undertake, study or fund the much younger field of legal empowerment should retain the goal of establishing useful, widespread ways of ascertaining impact and lessons. But we also should remain aware that our progress toward that goal will be incremental

We should similarly consider a topic closer to home, in terms of being a focus for law-oriented development funds: judicial administration. Many international agencies have devoted substantial sums (compared to LE) to such work over the past three decades. But success stories and evidence of impact are very limited—whether for “big picture” goals such as the quality of justice, investment, economic growth, human rights or poverty, or for more modest matters such as fairer treatment or greater access for specific disadvantaged individuals or groups.

The very fact that judicial administration lends itself to quantification in terms of items such as case backlogs and delay would seem to indicate that in some respects it is (relatively) easily evaluated. But even a result such as a reported reduction in judicial delay can raise as many questions as it answers. Are the statistics reliable? Are cases being dismissed, settled or otherwise eliminated in a manner that increases or decreases the quality of justice? Does delay sometimes serve useful purposes, particularly for the disadvantaged? Are the disadvantaged more likely to see their cases dismissed as part of the drive for backlog reduction? Are improvements sustained once the development project that brought them about has come to an end? Are the improvements cost-effective? What are the opportunity costs and benefits of funding judicial administration improvement as opposed to other legal, human rights or socioeconomic priorities?

As with microfinance, the point here is not to reach a conclusion about the value of judicial administration. Rather, it is to highlight the difficulty of ascertaining real benefits to the poor in even such a well-established, well-funded field.

C. Randomization: The Perfect as the Enemy of the Good?

There are significant debates among evaluation specialists and social scientists about what research methodologies are adequate or even desirable for ascertaining impact. A particularly salient dispute involves what is sometimes called the “gold standard”—randomized control trial evaluation, also known as the use of randomized samples or, most simply,

⁷ See, e.g., Milford Bateman, *Why Doesn't Microfinance Work* (London: Zed Books, 2010).

randomization. The matter is relevant to legal empowerment because the use of randomized samples can and has been relevant to this field, but not necessarily in the very expensive and admittedly most rigorous manner in which institutions such as the World Bank employ the methodology.

In fact, the Director of the Bank's Research Department has provided an illuminating critique of randomization, particularly in response to its advocates who claim that it is the only or necessarily the best methodology for ascertaining development impact. As he concludes:

The emphasis that researchers are now giving to obtaining better knowledge about development effectiveness is welcome. Randomization is one of the tools that can help. However, the important task of investigating what works and what does not in the fight against poverty cannot be monopolized by one method.⁸

Randomization basically works as follows: Before a project or program begins, (at least) two groups are selected from the same overall population—for example, people eligible to receive land titles. They are chosen in a manner called random assignment. This means they are chosen at random rather than individually, intentionally selected; thus, if the two samples are large enough they provide a valid basis for comparison. One sample comprises a representative portion of the intended beneficiaries (also called participants or intervention group) of a development initiative—for instance, these could be people who are taught about their right to land titles and helped to act on that right. The other sample is a control or comparison population, which will not be involved in the initiative—e.g., people not informed or assisted regarding their right to title. The hypothesis of the evaluation/research is that the beneficiary population will be better off than the control group in some way as a result of the development project/intervention.

The two groups are surveyed at the outset of the project. Sometimes during the project the two groups will also be surveyed to determine progress—this is sometimes called a formative or intermediate evaluation. Typically, they will be surveyed at the close of the project—a summative, final or end-of-project evaluation. They might even be surveyed again, such as several months or years later, as a kind of post-initiative evaluation, though such post facto studies are rare.

Randomization assures or at least increases the likelihood that the effects of the project can be ascertained over time by first selecting two groups that are very similar at the outset of the project and contrasting subsequent changes among beneficiaries with changes (or the lack thereof) for the comparison group. Some researchers even argue that this approach is not just the best way of ascertaining impact—it is the only truly reliable way—though this notion is contested (as in the aforementioned paper by the Director of the World Bank's Research Department).

⁸ Martin Ravillion, "Should the Randomistas Rule?" *Economists' Voice* (February 2009) Volume 6, Issue 2, p. 5. http://www.bepress.com/cgi/viewcontent.cgi?context=ev&article=1368&date=&mt=MTMwNTA2MTE2Nw==&access_ok_form=Continue

A number of important considerations factor into the debate over whether and when randomization is appropriate. For some studies—involving pharmaceuticals, for example—it could prove unethical to deny benefits to the comparison population. Employing randomized samples can be a very expensive undertaking as well, running into the hundreds of thousands of dollars or even more.

More broadly, there are questions about the many situations that do not lend themselves to randomized samples. This methodology tends to work best where a single or very limited array of variables can be controlled—such as in the field of public health, regarding the provision of vaccinations or mosquito nets. But effective legal empowerment strategies, activities and results are usually far more complicated than even a basic activity sketched here—educating people about their right to land titles. The same is true of many fields and activities that overlap with LE work—building civil and open societies, or women’s empowerment, or successful policy advocacy, for instance

Furthermore, LE work and evaluation typically involve ongoing efforts rather than those starting from scratch. To try to ascertain whether an NGO has helped its beneficiary/partner communities to achieve land titling or reduce domestic violence, for instance, one cannot turn back the clock to identify a pre-project comparison population. And if that NGO has arguably contributed to important legal reforms, that impact cannot be ascertained by survey research; qualitative case studies are more appropriate.

Nevertheless, in the relatively rare instances where budgets and circumstances permit, randomization might prove fruitful for legal empowerment evaluation. In a number of discussions with World Bank headquarters and field personnel in recent years, I have been informed that the Bank is employing randomized samples in Indonesia to evaluate legal empowerment activities supported by its Justice for the Poor program (J4P, the unit that takes the lead on much of the Bank’s LE-oriented pilot projects and research (though J4P did not initiate this particular study).

The results of this Bank research should prove illuminating on the one hand but of limited applicability to most other LE initiatives on the other. On the positive side, it is sampling broader populations than most LE research does, and in a more rigorous manner.

On the other hand, the budget for the Indonesia research is so great that most other development and funding organizations could not duplicate this endeavor in most other contexts. In addition, the initiatives being evaluated are under the control of the Indonesian government—it is selecting NGOs to implement LE activities, for example. This may well make sense for the World Bank, which largely channels funds through governments. But it cuts against the less bureaucratic, more independent nature of much legal empowerment work. It is possible that Indonesian NGOs selected by other sources (international NGOs employing donor funds in an intermediary capacity, for instance) could deliver better results than those chosen by the government, both because of which NGOs would be selected and the flexibility with which they could operate.

With these considerations in mind, I highlight the use of randomized samples at this point in the Guide partly because it is important to be aware of this “gold standard” approach. In addition, I want to flag the possibility that the approach is in some ways inappropriate for much (though certainly not all) LE evaluation. Under the unusual conditions where budgets and the nature of the LE work in question permit, it could prove useful. More often, however, insisting on this approach for evaluating legal empowerment work could make the methodologically perfect the enemy of the good.

D. Other Standards of Proof

The drawbacks of randomization bring this discussion around to the question of whether other information can be useful in the absence of randomized samples. It is the assumption and argument of this paper that there are many other types of productive research and knowledge; for many types of LE impact, in fact, these alternatives are more appropriate than randomization. Starting with the next section, much of the rest of this paper articulates such alternatives.

There are many considerations to be raised in favor of the other methodologies and standards of proof discussed in this paper. Those considerations boil down to this: policy-makers, legislatures, judges, juries, businesses, other organizations and ordinary citizens make crucial decisions every day without the benefit or the possibility of employing randomized samples. These involve public policy, court verdicts, investments and a host of other matters—some of them even matters of life and death. Scores of disciplines—including history, political science, the legal field and most notably international development—accept as a matter of course that they operate with imperfect, incomplete information. The same should be said of legal empowerment.

We should of course strive for the most precise, rigorous evaluation research possible. But very often budgetary constraints bar such approaches. And even more frequently, the complexity of activities, strategies and contexts strategy weigh in favor of working with incomplete and imperfect information.

Part Two: Specific Elements and Examples

V. Types of Legal Empowerment Impact

This section sketches a number of categories of potential LE impact. Parts of the discussion proceed from what I consider the more basic to the more advanced and powerful kinds of results. But some such results can overlap. And some participants in and observers of LE work may weigh these kinds of impact somewhat differently than the way I do here.

A. Attributes, Capacities and Circumstances of Individuals, Groups and Communities

Though the point is a simple and even simplistic one, how a project or organization concretely benefits people is the bottom line of all legal empowerment work. But there are diverse categories of such impact. For example, some LE-oriented NGOs see helping their partner populations to organize or to engage in civic participation as central goals of their efforts. Others view such mobilization as a means toward an end of economic changes in people's lives—e.g., greater financial well-being and other improvements in material circumstances.

The dynamic is not always straightforward; nor are various goals mutually exclusive. Enhanced knowledge and participation, for example, can yield financial gains for farmers who stand to benefit from agrarian reform programs. And greater financial independence can in turn fuel increased civic participation.

Whether the following types of impact, then, are ends in themselves or means toward ends are matters that individual organizations inevitably decide for themselves.

Regardless, impact can involve improvements in the following attributes, capacities or circumstances of persons, communities and groups:

1. Legal Awareness

For some people in some societies, a lack of legal awareness is even more basic than ignorance of the law. They may not even realize that they have *any* rights. They accordingly do not even start to understand specific laws and freedoms.

It is certainly true people have a sense of justice, of right or wrong, even if they have no awareness of rights. But the latter can influence the former. That is, the knowledge that the law may be on their side can influence how they view the justice (or injustice) of their situation.

2. Social/Historical Awareness

Legal empowerment work can sometimes operate on a level even more fundamental than legal awareness, however. A number of years ago in India, I had the opportunity to observe training conducted by an NGO, the Centre for Social Justice, for *dalits* (the preferred designation for the more pejorative term “untouchables”) who were to become basic paralegals for their communities. In addition to cultivating legal awareness, the session cultivated what could be called social or historical awareness. In a very basic way, it taught the participants that the caste system that considers them outcasts was not always dominant in much of the country, that far enough back in history their ancestors were on more equal footing with other parts of society. Such education can constitute an important part of efforts to help the disadvantaged see that their current status is not their pre-ordained lot in life.

3. Legal Knowledge

Even where basic legal awareness does exist, in many countries the population knows little about the rights and responsibilities enshrined in their laws. This widespread legal

ignorance typically is not the only obstacle to building open, affluent societies. But it is part of the problem.

Familiarity with rights and responsibilities are only a starting point for enhanced knowledge. People often need to know about such matters as how legislatures, local governments and executive agencies operate if they are to interact effectively with such bodies. As with educating people regarding their rights, promoting such knowledge of legal and democratic institutions sometimes must start at a very basic level. This can involve acquainting them with the basic principles of democratic governance.

Under many other circumstances, it can be more effective to focus mainly on those aspects of government operations or other issues that most directly affect specific groups—farmers, women or consumers, for example. This reality is certainly not confined to the disadvantaged; people tend to focus on matters (legal or otherwise) that directly benefit or harm them. Thus, women may be more concerned with their specific inheritance rights than their country's constitution. The urban poor may show much more interest in whether local ordinances allow them to keep their housing than what international human rights instruments have to say.

This is certainly not to say that constitutional or international human rights are irrelevant to the poor—far from it. But more context-specific legal knowledge can be significant in at least three regards:

- First, it can involve teaching about issues of greatest salience to the disadvantaged.
- Second, their acquiring such knowledge can provide a spark for learning about, organizing around and/or participating in relevant issues.
- Finally, and most significantly for the purposes of this Guide, whether and to what extent an evaluation can determine whether people have benefited from educational LE activities can hinge on whether they stand to concretely gain from relevant training.

Legal knowledge is not an unadulterated good in some development circles. Irrigation engineers have informed me that it can disrupt community cohesion to inform Indonesian terrace farmers that they may be entitled to more water than their water users' association has historically allotted them. Having raised this matter, however, for the purposes of this Guide it could constitute a tangent (albeit and important one) for me to delve into it further.

4. Other Kinds of Knowledge

Legal empowerment is of course centrally about the use of the law and rights, which in turn involves legal knowledge. But sometimes other kinds of knowledge can dovetail with the legal sort, and acquiring such other knowledge can reflect on the overall efficacy of an LE initiative. For instance, to draw on specific LE work discussed below (in Section VIII), that work's value might be partly demonstrated by project beneficiaries' enhanced understanding of water user association operations in Bangladesh, urban housing issues in Indonesia or health service delivery in Uganda.

5. Legal Skills

Even knowledge of their rights and how government operates may not be sufficient if citizens lack skills pertaining to *how* to assert their rights and/or become involved with governance. For example:

- How does one prepare an affidavit for a court hearing, petition a government office to repair a broken sewer pipe or report domestic violence to the police?
- How does one fill out a land titling application, both in theory and in the reality of how government offices actually operate?
- How does one identify which government office or official processes such a form?

Such skills can be crucially important to a given citizen or community. They are vital building blocks in converting legal knowledge into action that helps get laws implemented.

6. Attitudes

Deeply internalized attitudes may mean that people block themselves from asserting their rights, with important implications for the alleviation of poverty or the emergence of open societies in many countries. These attitudes may stem from economic, social, political or cultural factors. For instance, at a paralegal training session I attended in the Philippines a number of years ago a woman expressed hesitation about making use of her resulting legal knowledge and skills, telling that “I am just a simple housewife.” It could well be that like so many Filipinas she went on to play a powerful role in her community, including as a paralegal. But one obstacle to her doing so was self-doubt. This is a reason why an indicator of initial success in a 2009 Asia Foundation study in Bangladesh (discussed below, in Section VIII) was apparent increases in community members’ confidence.

In some societies, even the notion of rights is culturally alien. In even as formally a rights-oriented society as the Philippines, citizens may view their actions and situations through a lens of personal obligations rather than as legal entitlements. In other places, cynicism blends with fear to block popular participation regarding local or national issues. In yet others, a “learned helplessness” flows from the poor’s reality or perceptions of their plight—they have no hope of being able to change their situations. In a related vein, histories of perceived or actual injustices divide the populace along the lines of ethnicity, religion or political factions. These tensions in turn undermine constructive civic participation, with negative ramifications for democratic or economic development.

In terms of identifying potential impact, which comes first—legal knowledge or attitudinal change? Knowing that the law accords certain rights can certainly fuel one’s resolve to assert those rights; it can be the first step toward challenging a police officer’s abusive conduct or a factory’s livelihood-impairing pollution of waterways, for example.

On the other hand, for some problems, attitudinal change may be necessary before more specific legal information can be effectively imparted. Battered women, for instance, may need to see that their mistreatment is not their inevitable lot in life before they can fully absorb rights

education. The dynamic can be complex and mutually reinforcing, of course—informing them that they have rights can affect their attitudes, and changing their attitudes can help them become more interested in learning about their rights.

Desirable attitudinal impact can be manifested by persons in addition to the most vulnerable. As indicated by a 2001 Asia Foundation study of NGOs in Bangladesh (please see Section VIII), it can involve men becoming more open to women speaking their minds and contributing to government deliberations. And it also include changes in the attitudes toward the poor of government personnel, landlords, corporations and other powerful forces.

The question of changing attitudes is a contentious one in some development circles. I have witnessed disagreements between indigenous people's and women's rights advocates about the extent to which the state should intrude on customary beliefs and practices that have strong gender implications. While it is true that encouraging the rural poor to scrutinize their own ingrained assumption runs the risk of cultural (or simply urban) imperialism, the problem of violence against women would seem to present a context in which altering tolerant attitudes of men and women alike is justified.

7. Behavior

Impact on behavior can constitute a key goal of many LE efforts. Such efforts are sometimes considered successful to the extent that they contribute to citizens joining community associations, attending public forums, seeking government action and service delivery, combating corruption, making their priorities known to political parties or corporations, or asserting their interests.

Changes in behavior often are issue-specific, reflecting citizen involvement in environmental, economic, gender or other concerns. Behavioral change can accordingly be an end in and of itself, or a means toward achieving issue-specific results—getting land title or reforming unfair laws, for instance. In that latter regard it can be considered a kind of intermediate impact (or, in terms of social research methodology, an intervening variable) that contributes to other results.

One important subcategory of behavior/participation is people banding together to organize around common interests or principles. Again, this can be considered an important kind of impact. But it also can help lead to other positive results, such as changes in their material circumstances (discussed below).

Improvements of this sort do not solely involve the behavior of the disadvantaged. To the extent that LE activities reduce corruption or increase government responsiveness, for instance, this constitutes behavioral impact. The work of Kaisahan paralegals and the CBOs they represent in the Philippines (discussed in Section VIII), for example, can be instrumental in getting local agrarian reform officials to consider farmers' applications for improved tenurial status in a favorable manner. Similarly, professional paralegals employed by the South African NGO Black Sash can be crucial for holding government personnel accountable for delivering social service benefits to the impoverished. And the network of Alternative Law Groups in the

Philippines and the justice services NGO Timap (both discussed in Section VIII) in Sierra Leone have helped persuade top officials in their respective nations to consider and act on various issues affecting the disadvantaged.

8. Negotiating Strength/Political Power

As with changes in behavior, strengthening disadvantaged people's individual or collective negotiating strength or political power can be seen as an end in and of itself or a type of intermediate impact. It can take the form of a woman being able to stand up for her land rights (sometimes, in turn, by virtue of changes in her knowledge and attitude and/or her belonging to an organization). Or it can mean that a market vendors' association can persuade the police or politicians to let them conduct their business free of harassment.

9. Legal Status

One important goal of legal empowerment is, naturally enough, improvements in an individual's or group's legal status. This can take myriad forms, including:

- A farmer receives land title or other changes in his/her tenurial status.
- An upland indigenous group's collective land rights are recognized by the government.
- Members of that group receive official permits to harvest forest products, such as rattan.
- Street vendors receive licenses to peddle their goods.
- A member of an urban poor communities has his/her housing rights recognized by local or national governmental processes.
- A child received an identity card or birth certificates, which confers a right to health and educational services or to lawful employment down the line.
- An immigrant or refugee is granted the right to live and work in a country.
- A woman's inheritance rights are certified by a court or other governmental forum.
- An individual's application to review government records is recognized as per freedom of information laws or other legal provisions.
- A prisoner's due process rights are recognized by a court, prison or other institution.

It is important to understand, however, that a change in legal status does not necessarily equal a change in a person's material circumstances. That is, a farmer's land title, woman's inheritance rights or petition of habeas corpus may be recognized by a judge, thus cementing changes in their respective legal status. But if the farmer is unable to till the land, or the woman does not receive her inheritance or the prisoner is not produced in court, the relevant laws are not implemented and these individuals' material circumstances do not change. These other two types of impact are discussed below.

10. Legal Implementation

Legal implementation, already highlighted in this paper, is the enforcement of laws. It is vitally important because all too often in all too many countries, legal reforms or the ratification of human rights treaties are ineffective because the improved laws are ignored. Thus, legal reform can be meaningless without legal implementation.

One example of legal reform translating into legal implementation can be found in a natural resources protection project carried out by the international NGO CARE in cooperation with domestic civil society groups in Ecuador in the 1990's. In association with those groups successfully lobbying for policy, legal and constitutional reforms protecting the collective land rights of indigenous people (IP) there, the project helped train and form associations of paralegals. The paralegals in turn assisted about 50 IP communities to obtain legal status and about three dozen of them obtain communal titles to approximately 50,000 hectares of land.⁹

Where LE efforts improve the enforcement of decent laws—for land reform or fair trials, or against domestic violence or ethnic discrimination, for instance—this constitutes legal implementation. This kind of impact often overlaps with other types, though ascertaining cause and effect can be complicated. That is, depending on the circumstances, legal implementation can contribute to or flow from improvements in behavior, negotiating power or material circumstances.

11. Material Circumstances

For many in development and policy circles, improvements in disadvantaged person's material circumstances are the bottom line of LE and many other efforts. That is, those who see socioeconomic benefits as the end goal and participation as a means toward that end may view changes in disadvantaged populations' material circumstances as the most important type of impact.

Such impact can take numerous forms, such as:

- increased incomes or assets, as indicated by the Kaisahan farmer paralegal project in the Philippines (Section VIII);
- health improvements, such as decreased infant mortality in via a community scorecard project in Uganda and decreased female genital cutting via the TOSTAN reproductive health project in Senegal (both discussed in Section VIII);
- improved sanitation, as described by the IDS paper on Nijera Kori in Bangladesh (Section VIII);
- increased school attendance, as described by that same paper;
- release from imprisonment, as indicated by three independent evaluations of PASI in Malawi (Section VIII);
- decreased violence against women; and
- a halt to specific instances of pollution or other forms of environmental degradation (which in turn can translate into impact on health and livelihoods for affected populations).

⁹ CARE, "CARE Ecuador's Subir Project," unpublished summary produced by CARE International's Ecuador office, October 2000.

That last example regarding environmental degradation illustrates an important point: Sometimes beneficial impact on material circumstances involves halting or simply even slowing damage, rather than outright positive change.

Where impact on material circumstances is not viewed as an end in itself, it can alternatively be seen as way of gauging whether citizen knowledge, skills, attitudes, participation or negotiating power have improved.

B. Government Policies and Actions

Effects on government policies and actions that specifically benefit the disadvantaged are a vital subcategory of LE impact. Of course, such changes can also contribute to many other LE benefits, such as improvements in health, education, assets and other material circumstances.

LE impact can also pertain to substantive laws and policies—e.g., where advocacy groups contribute to the enactment of stronger gender-oriented legislation. But, as with other LE work, the dynamic is complicated: Improved processes can affect substantive laws, and substantive victories can strengthen the morale and cohesiveness of disadvantaged groups. This work also can establish precedents or strengthen processes that facilitate future advocacy.

1. Participation in Government Deliberations

The disadvantaged often have no way of making their priorities heard by local or national governments. They may be so uninformed or disorganized, or the government may hold them in such low esteem, that they cannot take advantage of nominal opportunities for participation. In fact, the very notion of the disadvantaged expressing concerns and priorities to government may be alien. Where these conditions initially apply, increased involvement in government deliberations (such as the disadvantaged or their allies testifying at legislative, executive agency or local government hearings regarding potential official policies or actions) may constitute significant LE impact, as may organizing and participation in meetings with government representatives.

2. Input into Formulation of Potential Laws and Policies

Disadvantaged groups and their allies may reach beyond simple involvement with government deliberations to play a more sophisticated and significant role in formulating potential laws and policies. This type of impact differs from participation in deliberations, in that it contributes to the government actually considering specific reforms that such forces propose, support or otherwise bring to official attention.

This kind of LE impact can be considered procedural, in the sense of strengthening processes and practices. Examples of this can include persuading municipal council members to grant disadvantaged populations meaningful input into budgeting and other resource allocation processes.

3. Legal, Institutional and Policy Reform

It is one thing to participate in government deliberations or the formulation of potential laws and policies. But even where the disadvantaged and their allies might participate in such processes, their efforts fall short if the legislative, executive or judicial branches reject the resulting proposals. It is another order of magnitude, then, where such institutional, legal and policy reforms are officially adopted.

There are numerous examples across the globe of the civil society organizations comprising or representing the disadvantaged contributing to such reforms. Often as part of larger coalitions, the Alternative Law Groups in the Philippines have helped draft and successfully advocate for many scores of laws and regulations benefiting woman, the urban poor, workers, farmers, indigenous peoples and other disadvantaged populations over the past 20 years. They have also contribute to various degrees of institutional reforms in the judiciary and government agencies, such as by their leaders becoming senior officials in the Department of Agrarian Reform and the Department of Environment and Natural Resources.

Similarly, public interest law NGOs and other advocacy organizations in South Africa have achieved landmark victories regarding housing, health and a host of other issues. Their impact includes an array of precedent-setting judicial decisions. And the many legislative and judicial successes in India have included passage of right to information laws on the state and national levels.

Of course, this is not to say that advocacy efforts that do not result in the adoption of reforms are all for naught. They may help build disadvantaged groups' organization and knowledge, paving the way for other initiatives down the line. But at least in the short term, the actual adoption of reforms is a higher level of LE impact.

4. Government Accountability

Legal empowerment efforts often are instrumental in ensuring or at least increasing government accountability, including in situations where it is all too often an alien concept. The aforementioned community scorecards regarding the delivery of health services in Uganda are an example of holding dispensary personnel accountable in a country where they may not show up for work and medicines can easily go missing.

Where people have and can act on their right to information, such accountability can extend to the crucial matters of budget monitoring and resource allocation. Such activism reaches far beyond the aforementioned adoption of a right to information law in India, to include mechanisms known as social audits:

Participatory measures for tracking actual public expenditures against budgets have been undertaken with varying degrees of success in India, Uganda, Indonesia, and many other places. These interventions depend on the public availability of budgetary and expenditure information. With public records in hand, civil society actors can engage in participatory comparisons against actual

spending. Mazdoor Kishan Shakti Sangathan (Association for the Empowerment of Workers and Farmers) pioneered social audits in Rajasthan, India in the early 1990s. Sangathan workers read out government accounts and expenditure records at community meetings, and then invite villagers to testify to any discrepancies between official records and the villagers' personal experience. These meetings expose corruption and sometimes lead to the return of stolen funds.¹⁰

5. Contributing to Legal Implementation.

Legal implementation has already been discussed in this paper, most recently in the context of improving the circumstances of disadvantaged populations. But it bears highlighting yet again in the context of government policies and actions. Where LE efforts succeed in getting a government to enforce the legal and policy reforms, they have achieved a fundamentally important type of impact that translates such reforms into effective government action. This impact certainly can be seen as an end in itself. In addition, however, it may be viewed as a reflection of enhanced, effective participation by disadvantaged populations—more specifically, reflecting their enhanced negotiating strength/political power or changes in their behavior.

6. Other Government Actions

There are many other kinds of LE impact on government that, strictly speaking, fall outside of the categories already summarized here. For example, the appointment of reformist government officials or the resignation of corrupt ones can flow from LE efforts.

C. Other Types of LE Impact

A few other categories of LE impact merit attention:

1. Policies and Practices of Foreign Governments and International Agencies

An LE initiative can generate significant impact to the extent that it helps to influence the policies and practices of foreign governments and international agencies. One example might be advocacy that persuades a large development agency to modify or cease funding for a project that runs roughshod over indigenous people's rights. Another could involve persuading embassies to combat government-sanctioned land grabbing or human rights abuses.

2. Influential Individuals and Domestic Organizations

Sometimes very important decisions and actions affecting the disadvantaged are taken by individuals and nongovernmental entities. These can be landlords, politicians, other local power brokers or corporations, for example. To the extent that LE programs enable citizens, communities and NGOs deal with them on more equal footing or influence their actions, these efforts may have significant impact.

3. "Keeping the Flame Burning": Sustaining Important LE Initiatives

¹⁰ Maru, 85, citing World Bank, *From Shouting to Counting: A New Frontier in Social Development* (2004).

Thus far, most of this discussion has centered on positive benefits for the disadvantaged. But some country conditions can be such that an LE organization is achieving impact just by continuing its work in the face of harsh opposition. Thus, NGOs working for human rights or the status of women or ethnic peace may achieve a kind of impact simply if they "keep the flame burning" in an extremely repressive or sexist society. Or to employ another metaphor, it is a kind of success to swim against a repressive tide without sinking. Thus, organizations engaged in progressive advocacy, networking, education or legal services may have an impact in a given country simply by persevering even if the government is not allowing them to flourish.

Recent events in the Middle East bears out this perspective, as do the transitions from communist rule in the former Soviet Bloc two decades ago. For years, foreign-assisted training, networking and financial support for reformist groups and activities in those regions bore little observable fruit. Yet in the end they arguably contributed to change—though of course the lion's share of the credit goes to indigenous initiatives.

Present-day Cambodia demonstrates the point in a different way. In some regards, democratic, human rights and pro-poor land and environmental advocacy have seen at least as many defeats as victories in recent years. Yet the occasional victories do make a difference for the populations and policies that benefit. And more broadly, the ongoing efforts keep the flame burning to potentially build on current struggles, should the government change or modify its positions down the line.

Of course, such a rationale can be abused to the point of justifying any program anywhere. But this feeds into a much broader point discussed in a bit more detail below: Impact needs to be assessed in the context of specific country conditions.

D. Legal Empowerment Organizations' Capacities and Status

To conclude this section, many societies lack strong organizations comprising the disadvantaged or their allies. For example, there may be a dearth of NGOs that are skilled at educating and engaging the poor regarding their rights, whether through legal services or other means. One kind of impact that is highly relevant to LE, then, regards the capacities and status of the very organizations that carry out LE work.

Strictly speaking, building the capacities or status of an NGO or community-based group might not be considered a kind of LE impact, in that it does not involve using law or rights specifically to benefit the disadvantaged. Still, it can be vitally important to the success of LE efforts, so it is briefly addressed here.

Be that as it may, there are at least three main types of impact in this vein.

1. Internal Management Capacities

As with NGOs and government programs in many countries, LE-oriented organizations face manifold challenges concerning administration, budgeting, financial management and

accountability, and a host of other issues. Such obstacles can block their short-term effectiveness and long-term sustainability. Improvements in any of these regards can in turn contribute to more substantive impact.

2. Externally Oriented Capacities

Some LE organizations lack experience in relating to outside bodies and non-members. One shortcoming can concern the inability to persuasively present their points of view to their governments. They may be similarly inexperienced where they try to sway the actions of corporations, donor agencies that can influence the government, and other bodies. They may also fall short in describing their concerns and operations to the press and potential funding sources. To the extent that capacity-building, profiting from interaction with like-minded organizations or simply learning from experience contribute to positive organizational evolution, the impact is worth tracking and documenting.

3. Official and Informal Status

In a number of societies, legal empowerment organizations can encounter indifference or even hostility from the government or elements in the general public. This may be coupled by harassment or legal constraints on their operations. Therefore, improved public and governmental acceptance is generally desirable. Such acceptance can involve formal, legal status on the one hand (including registration by the appropriate government body) or informal, attitudinal status on the other (including popularity with the general public and respect from government officials).

Important caveats attach to changes in status, however. If informal acceptance comes at the cost of co-opting an LE organization and compromising its principles, it may not be worth the price. And if formal registration hamstrings the organization's operations and independence, it may well constitute a step backward.

VI. Evaluation Mechanisms/Methodologies

This section describes a range of mechanisms or methodologies that have been or could be used in evaluating and reviewing LE efforts. The menu is far from exhaustive. But, in addition to summarizing a few methods employed by social science research, it also seeks to capture some of the practical ways people gather information about any activity in order to assess whether it is worthwhile.

The degree to which an organization uses any of these must hinge on the resources available to it. Clearly, small-scale programs should not generate large-scale evaluations. Which mechanisms to use and which questions to ask also obviously depend on the nature of the initiative being reviewed.

Evaluation methodologies can be divided into two categories: **quantitative and qualitative**. Very basically, the former gather information that can be best expressed

numerically, such as the number of land titles issued or the percentage of a population that understands certain rights. Qualitative mechanisms, in contrast, gather data that is best expressed and recorded in a non-numerical manner, such as individuals' detailed opinions, experiences or observations.

For the purposes of LE and many other fields, one general type of information is not necessarily better than the other. Quantitative data certainly has a power and persuasiveness, not least in demonstrating scale of impact. People tend to be drawn to numbers, tables and charts as tools for demonstrating an endeavor's results.

As this Guide's earlier discussion of court delay reduction indicates, however, numbers can be deceiving if their context is not understood; thus, fewer cases awaiting trial may well indicate positive impact of improved judicial administration, but also can reflect valid cases being rejected for the sake of generating apparent success. And it says nothing about whether there are larger problems, such as corruption, permeating a judiciary. The point, then, is that even the best quantitative data should be placed in some kind of context that provides a narrative analysis.

Qualitative data also can be powerful. Such information can place problems and progress in context in ways that mere numbers cannot. In addition, people appreciate a good story (which more technically could be called a case study), be it of how a change in an individual's life, a community or a law came about. As discussed below, however, for the purposes of evaluation it is important that the story not simply be an NGO or a government program describing its own apparently good work. Without some sort of verification, a case study is a mere anecdote.

As with so much in evaluation, which methodologies to employ often hinges on the nature of the activity being reviewed (as well as its budget). Ideally, the review will include quantitative and qualitative elements, though this is a luxury that not all organizations and projects can afford.

A. Quantitative Mechanisms

1. Before/After Surveys of Participants

A potentially valuable and powerful way of assessing specific impact on knowledge and sometimes other kinds of impact is survey research. More specifically, as in the case of the Population Council's evaluation of the TOSTAN reproductive health project in Senegal (please see Section VIII), an organization can determine whether a program has increased participants' knowledge or other attributes by surveying them at its outset, and, at the very least, at the close of the program.

Naturally, if there is no "close of the program" to speak of, the survey research can still productively take place at different periods along the way to document impact. Preferably, in fact, where programs go on for years the survey research would take place periodically along the way to monitor progress, learn from it, and potentially modify the LE work in response to resulting lessons.

In its most ambitious form, this kind of survey would also incorporate control/intervention populations (discussed below) to constitute a randomized control trial evaluation. But it can have stand-alone value even if falling short of the randomized “gold standard” in terms of both rigor and expense. As already emphasized in this Guide, policy-makers, legislatures, judges, juries, businesses, other organizations and ordinary citizens regularly make crucial, informed decisions based on information that is less than perfect.

If appropriate, the survey at the close of a program should include questions that focus on the technical competence of its implementation, as well as those that measure impact. Assessing competence can be useful for determining whether the approach to similar activities needs to be refined in the future. But it should be clear that respondents' answers regarding technical competence say little about its impact. They may, for example, indicate that the speakers were excellent and that they learned a great deal. But these responses do not reveal what they actually learned.

In addition to knowledge, these impact-oriented surveys at the outset and close of a program can ascertain changes in attitudes. They also can determine improvements in skill levels, to the extent that asking questions (e.g., about how to organize a public forum or obtain information from a municipality) can demonstrate whether program participants retain at least a theoretical knowledge of how to exercise some skills.

The value of the research can go beyond these kinds of impact, however. It also can help identify important changes in material circumstances or behavior. Thus, the 2001 Asia Foundation report for the ADB (discussed in Section VIII) looked at the quality of housing (as indicated by tin versus thatch roofs) as a way of ascertaining whether people in an area assisted by Kaisahan were better off than demographically similar populations who had not received such help. That same research also asked people to report on engagement of women with government officials in rural Bangladesh, as a way of measuring confident behavior by females.

Of course, even survey research can have its flaws. Respondents may tell an interviewer what they think they think he/she wants to hear. They may appreciate an NGO's help and want to help it out, even if they have benefited far less than they indicate. They may fear that reporting abusive or corrupt conduct by government personnel can cause trouble for themselves. And anyone who has ever conducted any kinds of interviews in low income households in the Global South realizes that ensuring privacy can be problematic as family members and neighbors are interested in hearing conversations taking place in huts or shacks. Sophisticated survey research employs methods of alleviating such obstacles to conducting sound studies, but those methods may not be flawless.

Furthermore, the potential to establish before/after studies in many contexts can be limited. NGOs doing LE work with partner populations may be very reluctant to start new initiative in a given community simply for the sake of an evaluation or other research. And in a similarly practical vein, many such NGOs do not even initiate contact with individuals clients or partner groups; the NGOs instead respond to people walking in their door or to other requests for assistance. Still, this does not preclude all before/after survey research or mean that it cannot be

undertaken in a modified form that charts progress over time even if not from the very start of an NGO's work with a group or community.

Nevertheless, flaws and all, before/after survey research is sometimes the best tool available even if other methods could yield more reliable information. As described in Section VIII, the Population Council relied on this to ascertain a drop in female genital mutilation; clearly, given the extremely private nature of this change in material circumstances, surveys were the best option for trying to ascertain impact; actual examinations of girls and young women would have been problematic, to put the point mildly.

For some kinds of LE work, a follow-up survey, undertaken a year or more after the end of a program, provides a much better gauge of whether the participants have retained changes in knowledge, skills, attitudes, behavior or other changes initially generated by the initiative. As such, it can be a much more significant reflection of impact than is the survey undertaken at the program's close. The World Bank reportedly is moving toward commissioning more such post-program evaluations.

2. Surveys of Broader Populations

Under circumstances where impact may reach beyond LE program participants, a donor or NGO could consider surveying other populations likely to be affected. They need not be as broad as the general population. Rather, they could be residents of areas where an organization undertakes LE work, even if they do not participate in its training or other activities.

What might be an example of the kind of activity that might merit this kind of survey? An effort to help women understand and act on their property rights, for example, might anticipate that the resulting knowledge and even behavioral change could stem from program participants spreading information by word of mouth to others in their area.

Under such circumstances, survey respondents could be asked not just *what* they know (or believe, or do), but *how* they came to know it. Of course, people may not be able to identify how they came to know or do something. But their answers nevertheless may provide bases for concluding whether a given organization contributed to their enhanced knowledge (and conceivably to other types of impact). A woman who says that someone else in the community attended a training session or learned something via a radio program could be indicating what the original source of information was.

To provide a more concrete example of this phenomenon, a number of years ago while visiting the Madaripur Legal Aid Association (please see Section VIII) in Bangladesh, I asked some new female clients if they knew what it did and how they became aware of its services. Their answers indicated that they only had the most general sense of the potential help they could receive—mediation or, in the case of serious abuses, legal advice and representation. But the mere fact that they had heard from other women in their communities that an organization existed that could help them with problems with their husbands, families or neighbors indicated that at least some segments of the poor knew of its work. In a more structured form, surveys of

community members could indicate in a much more rigorous way whether and to what extent MLAA was known and respected.

In addition to revealing impact on citizens' attributes or circumstances, polling a broader population can suggest or verify other types of impact. It can indicate whether a given NGO's capacities or status have improved. Under some circumstances, the broader population may even be aware of the NGO's impact on government actions.

3. Control/Intervention Group Surveys

As indicated by this paper's discussion of randomization, surveying demographically similar intervention/participant groups and control groups provide a crucial basis for comparison in determining LE impact. Where surveys suggest that an LE effort has contributed to impact, a control group's relatively unchanged attributes can tend to verify the program's success.

A number of the studies cited in Section VIII in this report employ this methodology. The Asia Foundation research concerning LE work in Bangladesh, Indonesia and the Philippines; the TOSTAN evaluation in Senegal; and the World Bank study in Uganda are cases in point.

4. Household Surveys

One very useful point of comparison for LE initiatives can be found where general household surveys have been conducted (completely independently of the initiatives) by the government or international agencies to ascertain income, health and other indicators of well-being in the general populace. When compared with data generated for LE participants, the household survey information can provide a kind of baseline that suggests LE impact.

5. LE Organizations' Records

Not all LE efforts or organizations keep careful records documenting their impact. But where such information is available, it can prove very useful in providing an idea of the nature and scale of results. The evaluations (referenced in Section VIII) of the Paralegal Advisory Services Institute in Malawi, for example, have drawn on the records of that NGO and its predecessor program to demonstrate its impact on behalf of detainees.

Though such records are ordinarily associated with service delivery, they also can document and quantify the kinds of impact that donors are often (for better or worse) most concerned with—legal, regulatory and policy reform. In a recent discussion with a colleague who heads a large NGO with a multi-million dollar budget, I was informed that one respect in which she had apparently impressed the head of major foundation was by being able to cite and count the number of such national reforms her organization had contributed to through its research, advocacy and informational work. He had commented that she was almost unique in being able to provide this information.

The point resonates in that LE NGOs frequently and even typically overlook collecting and providing this kind of information to donors and other audiences, even though such audiences may be justifiably impressed by such impact. There is nothing wrong and much that is right with being able to say that an organization has contributed to four laws, three regulations and/or six local ordinances benefiting women, for example. Yet such data tends to be insufficiently highlighted in many NGOs' documents—if it is mentioned at all.

Of course, if an NGO (or policy institute, or law faculty) reports such success, its claim may only exist at the level of anecdote unless some independent verification is available. The discussion of qualitative mechanisms below might prove useful in that regard.

6. Government Records

Government records can help identify whether and to what extent an LE effort has met with success. Land titling, housing and other statistics can sometimes confirm an LE organization's claims regarding specific individuals or communities it has helped. In the alternative, they can suggest patterns of impact—where an agrarian reform-oriented NGO has been active, for instance, it could be that the government records indicate higher degrees of land titling or other tenurial shifts favoring the poor. The aforementioned health services research in Uganda drew on government dispensary records (in addition to the monitoring by community members).

B. Qualitative Mechanisms

1. Interviews and Discussions with Participants

Qualitative interviews and discussions with participants in LE activities—that is persons who were trained or benefited, or who were otherwise involved with the activities—seek information that cannot be translated into numbers. Of course, qualitative and quantitative inquiries can go hand in hand. For example, interesting survey results can trigger subsequent interviews in order to probe issues in more depth.

Such interviews can take many forms, but the two most prominent might be called semi-structured and open-ended. As interpreted and summarized here, the former starts with a common set of questions asked of all participants interviewed, before branching out to cover whatever interesting topics arise in the course of discussion. The latter focuses on whatever issues seem most pertinent to the parties to the interview as it unfolds.

As with post-program survey research, the most useful interviews could well take place months or even years after a LE initiative has ended. It is at this stage that the respondents might be best able to analyze what use they made of the program.

If such follow-up interviews are anticipated, an organization (be it the group doing the legal empowerment work or the one reviewing it) should collect contact information beforehand. Whether their names actually appear in the evaluation report should hinge on the nature of the LE activity, the consent of the individuals interviewed and the sensitivity of the information.

Though I characterize interviews in this section as constituting qualitative mechanisms for gathering information, there are two respects in which the tool can yield quantitative data:

- Obviously, interviews are also a central means of conducting survey research that produces statistics concerning impact and other phenomena. The qualitative interviews discussed in this section, however, are more open-ended or (at most) semi-structured in nature.
- Even these more qualitative interviews can yield quantitative data if the researchers are so inclined. Respondents' answers can be "coded" to indicate information about their attitudes. Responses that use the pejorative term "untouchable" rather than the more accepted word "*dalit*" may well indicate biases that, one would hope, an applicable LE initiative might ameliorate over time.

2. Interviews and Discussions with Non-participants

Interviews and discussions with non-participants (i.e., people not participating in legal empowerment activities) living in an area where an LE initiative is underway can prove valuable in a number of respects. Very generally, it provides a "reality check" regarding general developments in a society—developments that might indicate whether LE work is making a difference. For example, if non-participants are themselves active regarding agrarian reform, it might indicate (in the absence of other information) that an LE initiative's agrarian reform operations are not necessarily making a difference for participants. In this regard, then, non-participants can be considered a control population (as opposed to a participant/intervention population).

Such talks with non-participants can also indicate whether members of a community evince any awareness of certain LE organizations (such as legal services NGOs), their partner organizations (such as community-based groups), the issues that they address or the impact they might be having. That is, even if someone is not benefitting from a given organization's LE work, awareness of that group could indicate that it is a potentially positive presence in the community.

Similarly, discussions with non-participants can be informally contrasted with those conducted with LE participants. This comparison can contribute to an impression of whether impact (in terms of knowledge, attitudes, behavior, etc.) has occurred for participants.

This kind of informal outreach is not a substitute for more focused evaluation methods--it admittedly lacks the basic rigor needed for information to be verifiable and reliable. But it can supplement more important methods by providing some perspective on the issues and programs an organization is pursuing. It even can provide a basis for reviewing an LE initiative where the scale of the initiative (and thus the evaluation) is very limited.

3. Focus Groups

Though open-ended in many ways, focus groups (FGs) nevertheless represent a more structured approach than the interviews and discussions summarized thus far. By gathering several people together to elicit information and opinions in a group discussion, LE evaluators can assess whether and to what extent an initiative is having impact. As a result of the knowledge, attitudes and information shared by the FG participants, the discussions can shed light on the progress that LE-oriented activities concerning such matters as land, housing, gender or the environment are (or are not) making.

FGs can be structured in many ways. They can be stand-alone matters, convened in a given area just one time. But they also provide a basis for a beneficiary/control or before/after comparison. For example, as demonstrated by the 2001 Asia Foundation study of Kaisahan's work (please see Section VIII), farmers engaged in NGO-assisted LE efforts concerning land reform may presumably know more about the relevant laws than those not receiving such outside help. The Foundation's comparison of FGs from the two different kinds of communities confirmed this.

4. Interviews Based on LE Records

Yet another more structured approach to conducting interviews or discussions can involve reviewing the records of an LE initiative conducted by an NGO, government office, law school or other institution. Based on that review, LE participants/beneficiaries can be randomly selected for interviews, both to verify the information in the records and to ascertain what has become of their problems. For example, an NGO seeking to help women get fairer treatment by modifying traditional mediation methods may record the mediation agreements reached by sessions it organizes or otherwise becomes involved with. Follow-up interviews with such women can indicate whether the NGO's engagement helped them and whether that impact has persisted (most notably in terms of the other party honoring the mediation agreement).

Similarly, the World Bank review of Timap's operations in Sierra Leone (Section VIII) drew on such a process to identify clients/beneficiaries assisted by the NGO. A series of discussions with them in three Timap sites probed both the organization's operations and its results.

5. Observation of LE Offices and Activities

In the sense that "a picture is worth a thousand words," observation of an LE organization's activities or visits to its office can be one means of assessing the quality of its work. Of course, such mechanisms are not sufficient in and of themselves to evaluate that work. On the one hand, there is the possibility that the organization is only showing the visitors its best face. On the other, it is possible that the observation takes place on a slow or otherwise bad day. And there is always the possibility that supposed evidence of good or bad work proves nothing of the sort—a legal services NGO that has no attorneys in its office to see clients could be performing poorly, or could be busy with field outreach to train and assist partner populations.

6. Knowledgeable Third Party Interviews

Wherever practical, it is very helpful for an evaluation to include interviews with knowledgeable third parties to seek verification of reported LE impact. Under many circumstances, partner/beneficiary populations can constitute the best third parties, given that they are the persons an LE effort aims to impact. On the other hand, one must always be cautious about their positive reports reflecting a desire to help their friends or to keep donor funds flowing. Other sources of confirmation can include journalists, academics, government officials, NGO leaders and representatives of international development organizations. The review of Timap's work in Sierra Leone drew on interviews with community leaders in this way.

Of course, under some circumstances this relatively in-depth evaluation of relatively modest activities would be too expensive, time-consuming or politically sensitive. It also could be unnecessary where the only goal of the activities is to affect participants' knowledge or attitudes, if these can be determined through quantitative surveys. But independent verification would lend great credibility to the organization and its partners alike.

The third party interviews need not directly ask questions about an LE organization to ascertain its likely impact. The aforementioned 2001 Asia Foundation report on Kaisahan drew partly on interviews with local agrarian reform officials in the Philippines, asking them (without referencing Kaisahan) in which districts the reform program was most successful. Their answers indicated greatest success in those areas where that legal services NGO and its paralegal partners were active.

7. Chronological Connection

Though not absolutely conclusive, an organization can demonstrate impact when it documents the close chronological connection between its activities and their impact. Where a meeting, conference, rally, advocacy activity or other event (or series of events) has focused on a potential government reform, there may be a plausible causal or contributory connection if the government acts favorably soon afterward. In instances such as this, the case for the action(s) causing or contributing to change is stronger where other sources of information—-independent third party interviews, for instance—can help verify the link.

8. Textual Analysis

Where LE work makes a significant contribution to government legislation, policies or other actions regarding civic participation, one can seek to confirm this through textual analysis of the resulting document. For example, if an NGO, policy institute or civil society coalition has submitted proposals for changes in a law, there is a good argument for it contributing to change if the resulting government legislation or regulation includes language similar to the proposals.

9. Independent Written Documentation

Independent written sources can provide useful verification of impact. For example, a press report or other independent written source can confirm that an LE effort has impacted legal reform or legal implementation. Of course, even such sources should be taken with a grain of skepticism, for journalists sometimes only write what an organization tells them about, including

its own self-serving claims. Still, the fact that an LE organization or coalition attracts press attention to begin with can indicate that the group is playing an important role in addressing an issue.

10. Organizational Reviews

Though not strictly a review of LE impact, an organizational review of a group's internal management and/or externally oriented capacities can buttress its LE capabilities. There are of course many variations on this theme. In some contexts, a gender assessment can be a useful or even necessary vehicle for improving how an LE-oriented organization overcomes its internal or societal biases regarding such matters as women in the workplace.

Of course, any organizational assessment must take context into consideration. And at least as much as any other kind of review, it should best be forward-looking, seeking to identify lessons that can improve an organization's operations.

11. Case Studies

As I employ the term here, a case study consists of an in-depth, qualitative documentation of an LE program's/organization's operations, challenges, strategies and, to the maximum extent possible, impact. It can scrutinize, for instance the steps that led to the adoption of a piece of anti-discrimination legislation, how a union secured better workplace conditions for its members, or the dynamics fueling a coastal community's battle against illegal fishing practices that harm its catch.

In the case of the anti-discrimination legislation (an example of law reform), such scrutiny can consist of a social scientist tracking the bill's progress as it occurs or retrospectively, learning as much as s/he can about the strategies, politics and other influences that affected its form and course. For the fishing community, the study could involve a quasi-anthropological observation of the strategies and forces that helped (or failed to) overcome deeply ingrained attitudes, practices and/or opposition.

As is evident, a case study can draw on social science research tools, including some of the other evaluation mechanisms described in this paper. Perhaps more than any other mechanism, it offers opportunities to learn about strategies for effecting change at both national and grassroots levels.

An obvious difficulty with this approach is that it can be most useful when a legislative bill or a community is tracked from the start of an LE initiative, but this can be impractical if the effort does not produce success or even useful lessons. This can be overcome for some projects by researching a number of bills or communities. In many other instances, it could prove worthwhile and even necessary to review progress retrospectively.

Regardless, a case study is not automatically appropriate for reviewing all LE activities. And the time and expense involved with such studies preclude their being suited for certain modestly funded initiatives. But we should bear in mind that in many countries the costs of

contracting a professor and/or graduate students for a year is less than bringing in a Western consultant for a month, and that the former often have greater insight into their societies.

I have so far discussed case studies in purely qualitative terms. But such studies can certainly incorporate quantitative data. To yield the greatest insights and lessons, however, such survey results or analyses of government records should be embedded in the studies' narratives .

12. Triangulation

As discussed in the context of the aforementioned Asia Foundation study of Kaisahan's work concerning agrarian reform, triangulation applies to using multiple independent methods to address the same research question(s). With respect to that study, the Foundation employed focus groups, survey research and interviews with government personnel to ascertain whether Kaisahan's engagement with paralegals contributed to greater effectiveness of the Philippines' agrarian reform program in the districts where the NGO operated.

Triangulation is valuable in documenting impact and learning lessons for a self-evident reason: The use of multiple methodologies increases the likelihood of research findings being robust and reliable. It need not always be employed in an explicit as many as the Kaisahan study, however. The combination of three independent evaluations of PASI in Malawi tends to confirm that impact of that prison reform NGO's work. The IDS paper summarizing research on Nijera Kori can similarly be seen as a kind of triangulation, at least to the extent that it compiles multiple sources of research that tend to validate that Bangladeshi NGO's strategies and impact.

I have categorized triangulation as being qualitative in nature, in that it for the purposes of documenting legal empowerment impact it best integrates various kinds of data into a qualitative narrative. It should be evident, however, that some such data (e.g., survey research) can be quantitative.

VII. The Evaluation Process

A. Evaluation Planning

Is it worth the effort to plan an eventual evaluation years in advance? Not always. The duration of an LE initiative and the unanticipated activities and impact that may flow from it often obviate the advisability of planning in this manner.

Nevertheless, there also are many instances where it makes sense to think ahead about what LE work aims to accomplish and how to review those accomplishments if they occur. Under such circumstances, constructing an evaluation plan makes sense. All elements of the plan should be *illustrative* in nature, however, rather than constituting absolute commitments regarding what an organization will achieve and how it will evaluate impact. Even with a known quantity, many factors relating to an LE program can change before it starts or as it proceeds.

The elements of the plan need to be suited to the LE effort itself. But they could include the following:

1. Anticipated Impact

The plan could state the nature of the type(s) of impact an organization aims to achieve (e.g., regarding citizen knowledge or behavior, government deliberations, etc.). It also could state the anticipated scale of such impact, if possible. This applies to such matters as the number of citizens, communities or policies affected.

The anticipated impact is illustrative of what an organization hopes to achieve. It is *one* potential basis for evaluating a program. It may in fact turn out to be the sole basis for evaluation. But if other types of impact materialize, anticipated impact may become less salient and even irrelevant.

2. Anticipated Evaluation Mechanisms

The choice of evaluation mechanisms of course hinges on the nature of the program's anticipated impact. Determining increased legal knowledge sometimes lends itself to surveys; assessing NGO input into policy reform is much more qualitative and may be best addressed through case studies and/or independent verification by third parties.

It also depends on the program's duration and budget. A few third party interviews may well make sense for a relatively modest project. In-depth case studies may only be justified for a more major effort.

Like impact, evaluation mechanisms can only be "anticipated" in the evaluation plan. They may require modification or replacement once the program starts. This may be due to unexpected changes relating to the LE initiative, its apparent impact or the broader society.

In selecting anticipated mechanisms, the plan also could state illustrative questions that will be asked in reviewing impact. Again, however, it may need to modify these questions by the time the program begins or as it proceeds.

3. Unanticipated Impact

In addition to mechanisms for assessing anticipated impact, the evaluation plan should explicitly include at least one method of identifying unanticipated impact. This may seem like a contradiction in terms—how can one anticipate the unanticipated?

Still, there is a logic to this suggestion. It is driven by the reality that in much LE work, as in so many other endeavors aiming to achieve open societies, enhanced advocacy, improved service delivery and other important goals, unanticipated obstacles and opportunities are almost inevitable. Thus, the strong possibility of unanticipated impact (as well, of course, as unanticipated problems and failures) should be part of the evaluation planning process.

In addition, reviewing both anticipated and unanticipated impact can be one and the same process. Where, for example, follow-up interviews with LE participants or independent third parties aim to ascertain whether program results have been as anticipated, they also can probe for benefits that were considered possible but not likely at the outset of the program, or that were not considered at all. A survey that mainly probes for quantitative data of a predetermined nature may also include open-ended questions for the respondents, geared toward revealing unplanned results.

4. Time Frame

The plan could state a timetable for utilizing the anticipated evaluation mechanisms. Because so much of the impact of LE work can materialize long after the completion of a program, a final evaluation should take place at least six months after the program comes to an end. In some instances, it should even occur years down the line.

Thus, even this six-month period may be far too short to ascertain whether community-level gains are sustained. Similarly, it may take years to determine whether a policy/legal reform has actually been implemented to the benefit of the disadvantaged, or in some cases whether it has done more harm than good. Legal empowerment is partly about social change; such change can take years or even decades.

5. Resources

Finally, an evaluation plan should estimate—and the program budget should allocate—the resources needed to carry out a review. But as with all other elements of the plan, the budget estimate should be illustrative. That is, an organization should set aside a certain amount of funds for evaluation from the outset, but should employ those funds flexibly as it becomes clearer which information and mechanisms will best contribute to useful evaluation.

B. Evaluation Reporting

How can an organization integrate and weigh the information generated by its evaluation mechanisms? What types of reports suit these purposes? What kinds of questions could the reports address? Finally, but most fundamentally, how can the organization use and learn from the reports? As with other aspects of this Guide, the answers hinge on the nature of the organization(s), strategies and activities involved. This subsection nevertheless hazards some suggestions.

1. Weighing Impact Priorities in Reports

Very generally, with numerous exceptions to the rule, relatively modest and short-term (one to three years) programs are most appropriately evaluated in terms of impact on such matters as disadvantaged populations' legal knowledge or their input into government deliberations. The more ambitious and long-term an LE initiative, the more it should be assessed in terms of citizen behavior and material circumstances, policy adoption and implementation, and other government actions.

Why these broad distinctions? Knowledge is often a first stepping stone toward eventual changes in behavior. Similarly, input into government deliberations can yield impact on policy adoption and implementation down the line.

In some respects, impact priorities can hinge on the goals of an LE initiative and the orientation of the individuals and organizations involved. For some initiatives, individuals and organizations, the emphasis is on substantive change regarding behavior, material circumstances, legal reform or legal implementation. This is the orientation I favor, for it tends to translate into favorable, concrete advances toward open societies or poverty alleviation. But I do respect a more process-oriented perspective that instead prioritizes the evolution of attitudes, participation and ongoing input into government deliberations.

What can be confusing in establishing priorities is the relationship between substantive and procedural impact. Are legal reform, legal implementation and a resulting increase in assets for the poor ends in and of themselves? Or are they indications that the poor are participating more in government deliberations and have greater negotiating power than before? The important impact can be in the eye of the beholder.

In any event, and as already noted, due to context-specific constraints and circumstances (e.g., the strength and sophistication of civil society, whether and to what extent a government is reformist or repressive), LE efforts can be much farther along the spectrum of potential impact in some countries than in others. This important contextual consideration should be kept in mind in evaluating any LE initiative.

2. Some General Questions for Evaluation Reports

Unless the answers are self-evident, and to the extent that time and resources permit, many or most of the following questions should be addressed in an evaluation:

a. What is the nature of the impact? It may not be necessary or applicable to break down the discussion of an LE initiative's accomplishments into distinct categories of knowledge, behavior, government actions or other types of impact. The nature of impact often cannot be compartmentalized so neatly. But evaluators should keep various kinds of impact in mind in preparing a report.

b. What is the scale of the impact? It is not always possible or appropriate, but an organization can try to state the number of people or communities affected, or the population actually or potentially affected by government actions to which LE has contributed. Similarly, an evaluation of advocacy-oriented organizations can count the number of government reforms to which they have arguably contributed and tally up the potential populations such reforms benefit.

c. What is the significance of the impact? This element particularly addresses the crucial issue of context. In some instances, impact's significance may be self-explanatory. In others, it may be necessary to explain why cultural, political, economic or other factors in the

host society make an achievement admirable. What might seem like minor advance in, say, the United States or France can constitute a milestone in a less affluent or post-conflict country.

Similarly, it may be advisable to illuminate the importance of a particular policy achievement, or the ripple effect of impact on a specific community. Conversely, a report might need to provide context that addresses why the initiative fell short of expectations or its potential.

d. What is the LE initiative's contribution to the impact? A review may explain how an LE effort helped bring about impact. Typically, the emphasis should be on whether and how the initiative has contributed to impact, rather than attributing to the LE effort sole credit for changes that came about. In other words, the focus should be on contribution, not causation.

e. What is the significance of the organization's contribution? The importance of an organization's role may be self-explanatory, or may require some illumination along the lines of what might have happened (or not happened) had its program not taken place. The Alternative Law Groups in the Philippines, for example, typically belong to broader civil society coalitions pushing for legal reform or implementation. But they nevertheless play significant roles by virtue of often being legal advisors or drafters for the coalition's reform proposals.

f. What evaluation mechanisms were employed, and why? This question goes to the heart of verification, and how we know that impact took place and that the organization contributed to it. It also can address how the evaluator(s) reached certain conclusions and any (often inevitable) shortcomings in the evaluators' knowledge. Particularly for outside audiences, it could be helpful to explain why the evaluation report documents as much as is reasonably possible, while acknowledging possible gaps in what it can really portray about impact and attribution.

g. What lessons have been learned? This can be the most important element in the evaluation. The lessons can range from the relatively mundane (specific techniques for conducting paralegal training seminars, for example) to strategic (such as considerations regarding whether and how to work with a government agency permeated by corruption). Regardless, in the end an LE evaluation is most useful if it offers insights that an LE initiative can employ to improve its operations without the evaluation demanding that such insights be implemented.

This last point is an important one. While there is no guarantee that an LE initiative is competently or even honestly conducted, in many instances those directing and participating in it may know far more about what can and cannot work than outside evaluators. As such, an evaluation should not be considered a judgment by outsiders who know best, but a collaborative undertaking aiming to help LE initiatives and their partner populations take account of independent perspectives without automatically deferring to them.

VIII. Examples of LE Reviews, Evaluations and Impact

This section considers selected examples of reviews that have focused on initiatives that partly or wholly feature legal empowerment. I should emphasize that the studies are cited not because they are necessarily the most rigorous possible demonstrations of LE impact—again, bearing in mind that we should not let the perfect be the enemy of the good—but simply because they provide examples of some kinds of methodologies that can be used to study such work and some kinds of impact that can be documented. If any of these studies are methodologically flawed but can provide bases for more sophisticated, more reliable and better budgeted research down the line, my citing them here will prove worthwhile.

These are not the only LE studies that indicate such impact. I have selected them simply because they were readily available and represent a partial range of LE activities, strategies and documentation.

A. Dispute Resolution in Sierra Leone

One insightful documentation and analysis of impact can be found in a 2009 World Bank report on Timap for Justice, the leading legal services NGO in Sierra Leone and a potential model for similar efforts in neighboring Liberia and other nations. Though some organizations and observers would consider the report an evaluation, its author makes clear that she does not view it as such. Instead, she sums up Timap’s work and the nature of her report as follows:

This report presents an analysis of the theory, methods, and, to a much lesser extent, impact of *Timap for Justice (Timap)*... Through 13 offices in the country’s northern and southern provinces and a headquarters office in Freetown, *Timap’s* trained paralegals and two lawyer-directors use a combination of mediation, negotiation, education, advocacy, and occasionally litigation to attempt to resolve disputes, promote community activism and agency, and develop equitable and responsive institutions.¹¹

She goes on to describe how she and research colleagues drew on Timap files and several other sources of information to review the NGO’s work:

On the basis of one month of intensive field research in three *Timap* offices, as well as in-depth interviews with *Timap* directors and paralegals, community leaders, and past users of *Timap* services, the report paints a picture of the ways in which *Timap* attempts to resolve disputes. It begins by presenting the rationale and methodology behind the study, then describes the users of *Timap* services in the offices studied and their reasons for taking disputes to *Timap*, and then provides analysis of the extent to which *Timap* is or is not achieving its goals. It concludes by detailing respondents’ feedback for *Timap* and providing recommendations for areas for future research, as well as suggestions for improving service delivery.¹²

¹¹ Pamela Dale, “Delivering Justice to Sierra Leone’s Poor: An Analysis of the Work of Timap for Justice,” (Research Report prepared for the Legal Vice Presidency of the World Bank, 2009), iv.

¹² *Ibid.*

A key element of the report should be highlighted at this point—its emphasis on providing recommendations for future service delivery and research. In many respects, the best evaluations and reviews are very much forward-looking. Still, in considering Timap’s past and current operations, the report praises the NGO in terms of its:

- effectiveness in resolving difficult disputes, particularly those that confront institutions or power relationships;
- accessibility, both due to its proximity to disputants and the guarantee of free justice services;
- cultural awareness, in developing solutions that were aligned with the beliefs and expectations of community members;
- empowerment effects, particularly through its education and advocacy efforts and willingness to resolve family disputes, where women are often disadvantaged;
- range of tools available for dispute resolution, and willingness to use litigation when required; and
- speed, allowing disputants to settle conflicts and move on.¹³

The review and Timap assume greater importance because the government of Sierra Leone and donor partners are currently considering expanding legal aid throughout the country, based substantially on the Timap model and its expansive utilization of paralegals as its main staff personnel.

B. Accountability of Health Services in Uganda

Yet another kind of LE evaluation can be found in the use of community scorecards and community-based monitoring of basic health dispensaries in Uganda. A World Bank official’s summary of this initiative addresses the background on this approach, the services provided and research methodologies involved.¹⁴ The summary is worth quoting at length, because it conveys key respects (which I highlight in italics) in which addressing rights contributes to both increasing and ascertaining impact.

The summary first illuminates the nature of community scorecards generally:

Community scorecards are generated for service delivery facilities like health clinics or schools. Civil society organizations gather objective data on facility performance and subjective data on the experience of facility users and facility staff. The scorecards aggregate these data and present them in a simplified form. Organizations then hold an interface meeting, in which both community and staff are present, to discuss the contents of the scorecard and the discrepancies between actual facility performance and performance as envisioned under policy. The aim of the interface meeting is to agree on an action plan, under which facility staff will improve performance going forward. The community then monitors the facility for compliance with the action plan. After a designated period – perhaps

¹³ *Ibid.*

¹⁴ Vivek Maru, “Allies unknown: social accountability and legal empowerment,” in Stephen Golub, *Legal Empowerment: Practitioners’ Perspectives* (Rome: International Development Law Organization, 2010), 85-86.

six months or a year – the civil society organization conducts a subsequent scorecard exercise to track progress.¹⁵

The author goes on to describe the specific public health initiative implemented and evaluated in Uganda:

A recent evaluation of a community scorecard intervention in Uganda demonstrated striking quantifiable results within one year. The intervention and evaluation were designed by staff from Stockholm University and the World Bank and implemented in cooperation with 18 Ugandan community-based organizations (CBOs) in 50 health dispensaries across nine districts. Of the 50 facilities, 25 were randomly selected for “treatment” (i.e. the intervention would take place in those communities) and 25 designated as control for the purpose of impact measurement. The CBOs collected data in two ways: a service delivery survey based on facility records and a household survey of randomly chosen households within the facilities’ catchment areas. The household survey measured health outcomes like child mortality and infant weights as well as each household’s experience with the facility, including parameters such as usage (e.g. when and how often household members sought care from the facility), access (e.g. actual prices paid for drugs), quality (e.g. wait times for receiving care), and satisfaction (e.g. household members’ rating of facility performance).

For the treatment communities, this data was aggregated into a simple scorecard... In addition to data on the facility under review, the scorecards provide district and national averages for comparison. The community-based organizations presented the scorecards, *along with information on the health ministry’s policies governing how dispensaries are supposed to function*, in a series of three participatory meetings: one with community members, another with service providers, and a third with the community and the service providers together.

In the final, interface meeting, *the community and the dispensary staff jointly developed and agreed upon a community action plan to improve facility performance*. Typical items in the action plans include: the clinical officer in charge will post a schedule of services provided by the facility; clinic staff will report to work regularly; the clinic will stop charging user fees, as mandated by law; the clinic will reduce wait times to one hour maximum; the health unit management committee will begin to meet regularly; and the community will increase its use of the facility... Community members were asked to continuously monitor compliance with the action plan. The CBOs held public follow-up meetings quarterly to discuss progress and problems.

¹⁵ Maru, 85, citing J. Singh and P. Shah, Community Score Card Process: A Short Note on the General Methodology for Implementation (World Bank 2005), available at <<http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTSOCIALDEVELOPMENT/EXTPCENG/0,,contentMDK:20507680~pagePK:148956~piPK:216618~theSitePK:410306,00.html>> at 26 November 2009.

The legal empowerment aspect of this initiative involves citizens being informed of and enabled to act on their rights—in this case, regarding health services. In fact, the rights-oriented (and hence, LE-oriented) elements of the initiative are at least two-fold:

- Community members were informed of government health policies regarding how the dispensaries were supposed to function, and thus the services to which they were entitled and which the dispensaries were obligated to provide.
- The action plan jointly developed by a community and dispensary staff constituted a de facto contract for which the staff was held accountable.

Finally, the author’s summary highlights key examples of impact:

The evaluation found remarkable results after one year of this relatively simple intervention: when compared with facilities in the control group, the treatment facilities experienced 19 percent less nurse absenteeism, 7-10 percent higher immunization rates, a 16 percent higher rate of facility utilization, and a stunning 33 percent drop in child mortality.¹⁶

C. Alternative Lawyering for Implementation of Agrarian Reform in the Philippines

Alternative or developmental lawyering describes a range of activities—some traditional legal representation (such as litigation), some alternative approaches (such as paralegal formation and community organizing)—through which NGO attorneys aim to use the law to advance development by, with and for disadvantaged populations. It often though not exclusively uses strategies that make the disadvantaged more legally self-sufficient and less dependent on lawyers. Thus, wherever possible, paralegals, leaders of partner populations (e.g., women, farmers, the urban poor or indigenous peoples) and the disadvantaged populations themselves do the bulk of the work and play the most prominent roles in protecting rights and improving well-being. Conversely, NGO attorneys limit themselves to training and supportive roles to the extent they can.

Kaisahan, the focus of the research described here, is one of approximately 20 Philippine NGOs constituting the Alternative Law Group (ALG) coalition. As part of a 1999-2001 Asian Development Bank (ADB)-supported seven-country study of legal empowerment conducted by the Asia Foundation, the Foundation designed a three-pronged study on the relative success of agrarian reform (which involves farmers acquiring land title or otherwise improving their tenurial status) in representative areas in which Kaisahan operated, comparing it to demographically similar areas where it was not active. It “applied the principle of ‘triangulation,’ through which the same question is approached through a combination of different methods.”¹⁷ (Triangulation is sometimes more literally interpreted to involve a combination of three or more different methods.)

¹⁶ Maru, 86, citing M. Bjorkman and J. Svensson, *Power to the People: Evidence from a Randomized Field Experiment of a Community Based Monitoring Project in Uganda*, Center for Economic Policy Research Discussion Paper No. 6344, (2007), n 9, 16-23.

¹⁷ Stephen Golub and Kim McQuay, “Legal Empowerment: Advancing Good Governance and Poverty Reduction,” in *Law and Policy Reform at the Asian Development Bank*, 2001 edition (Manila: Asian Development Bank, 2001),

More specifically, as summarized in the 2001 report prepared by the Foundation:

This paper reports the results of a comparative study of areas where there has been intensive paralegal systems development [carried out by Kaisahan] versus those where there has been none...

The value of securing legal title to land is vitally important to farmers, as those who hold title are likely to be more productive than those who have no legal documents to confirm their ownership of the land. The purpose of the study was: (i) to examine the advantages of having paralegal systems; and (ii) to assess whether paralegal systems development has a direct impact in increasing productivity...

The areas selected for the study were Agusan del Sur and Bukidnon, both of which are in the southern island of Mindanao. The two provinces have experienced a high level of redistribution of both public and private lands. Both provinces have favorable agro-climatic environments, which support a number of crops, including rice and corn...

Three types of data were reviewed in the study:

- (a) Independent assessment by local officials of the Department of Agrarian Reform of which barangays in their municipalities were the most and least successful in the implementation of the Comprehensive Agrarian Reform Program;
- (b) A survey of approximately 100 respondents in each of four barangays: two that had legal empowerment activities and two that did not. All four barangays are agricultural, are close to main roads, and have access to electricity.
- (c) Results from focus group discussions in these four barangays, in which participants were invited to discuss and make recommendations on an illustrative case involving the violation of farmers' rights under agrarian reform.¹⁸

All three types of research indicated greater agrarian reform success among Kaisahan's partner populations, compared to the control groups. For example:

- The survey and focus group research revealed far greater knowledge by Kaisahan-assisted populations than control groups.
- The DAR interviews suggested considerably greater implementation of agrarian reform in Kaisahan-assisted areas.

127-134. (More specifically, the study's background, methodology and findings are presented in the report's "Appendix 1: The Impact of Legal Empowerment Activities on Agrarian Reform Implementation in the Philippines.")

¹⁸ *Ibid.*, 129-130.

- There were tentative indications of improved productivity and assets in the Kaisahan-assisted areas, though this should be approached very cautiously in view of the small scale of the overall study and its survey component.¹⁹

D. Integrating legal information and services with socioeconomic development fields and activities

To a certain extent, the examples already cited in this section indicate ways in which the use of law and rights can be integrated with non-legal, socioeconomic development fields and activities to yield positive impact. But there are many other approaches to such integration. Surveys and other research have proven useful in documenting such legal empowerment results.

1. A cross-NGO comparison in Bangladesh

A number of Bangladeshi NGOs provide community-based legal services to women and other disadvantaged populations. Some such NGOs are legal services groups, primarily staffed by lawyers or paralegals. Others integrate such legal services into broader socioeconomic development efforts. Many NGOs from both categories try to reform *shalish*, the society's traditional, village-based dispute resolution system. *Shalish* has the advantage of being comprehensible, free and easily accessible for the poor. But in its traditional form, it also tends to be very gender-biased and sometimes subject to undue influence by patronage, criminal or political forces.

As part of the aforementioned ADB-supported 2001 study, the Asia Foundation compared several variables across surveyed groups.²⁰

The study described its methodology as follows:

This paper presents the results of survey research conducted in Bangladesh during the period November 2000 through January 2001, as a supplement to the seven-country Legal Empowerment Study undertaken under Asian Development Bank Regional Technical Assistance 5856. The research examined the impact of *legal empowerment*, which is the use of law to increase disadvantaged populations' control over their lives, on selected aspects of sample groups' legal knowledge, economic well being, gender equity, and participation in local governance...

The survey involved a controlled comparison of three different approaches to legal empowerment to determine differences in impact on beneficiary populations, as well as demographically similar control samples. The three nongovernmental organizations (NGOs) selected for the survey were: (i) the Madaripur Legal Aid Association (MLAA), which specialize in educating citizens about the law and providing a variety of legal services, notably mediation; (ii) Samata, which concentrates on mobilizing communities to apply the law through

¹⁹ *Ibid.*, 130-134.

²⁰ Golub and McQuay, 135-149 (More specifically, "Appendix 2: The Impact of Legal Empowerment on Selected Aspects of Knowledge, Poverty, and Governance in Bangladesh: A Study of Three NGOS").

massbased [*sic*] advocacy initiatives; and (iii) Banchte Shekha, which provides mediation and other legal services as part of an integrated development strategy for women...

The study was designed as a controlled comparison among four groups: three intervention (NGO beneficiary) populations that have been exposed to the legal empowerment strategies of the subject NGOs, together with a control population comprising persons who reside in or near the areas in which the three NGOs operate, but who themselves are not beneficiaries of the NGOs' services. In addition, some comparisons were drawn between intervention and control populations associated with a specific NGO.

The "intervention" sample was made up of equal numbers of male and female respondents from the operating area of the three NGOs surveyed: Banchte Shekha, Madaripur Legal Aid Association, and Samata. From a list of direct legal empowerment program beneficiaries provided by each NGO, 150 individuals were randomly selected for a total intervention population of 450...

The control population is made up of 150 individuals (50 per intervention area) selected randomly from villages in two unions in the thana neighboring each of the NGO intervention areas. Equal numbers of men and women were selected from each village using the *kish* method. This well-established sampling methodology utilizes a preset criteria for systematically selecting interview/research subjects in a research site, so as to ensure that the full diversity of the population is represented in the sample. The control population was selected in such a way as to be representative of the total populations of the three geographical areas where the subject legal empowerment activities are conducted, but with no direct exposure to such programs. The three intervention samples, by virtue of constituting beneficiaries of and/or targeted participants in NGO services, represent the lower economic strata of the communities.²¹

The survey research generally found that the partner/intervention populations of all three NGOs were better off with regard to several variables in comparison with control populations. It further determined that, in comparison with the legal information/legal aid NGO MLAA, the two other NGOs (which integrate legal aid with other development operations) were more effective across a range of goals when their partner populations were compared with control groups. These impacts included restraining the widespread but illegal practice of *dowry*;²² successful citizen participation in joint actions and in influencing local government decisions; fostering positive community attitudes toward women's rights and participation in governance; use by the poor of government-managed lands that local elites otherwise seize; and dramatically less reliance on those elites for dispute resolution.

²¹ *Ibid.*, 135-6.

²² Dowry is the payment of money, livestock, or other material goods by the bride's family to the family of the groom, in order to secure a marriage. After the agreed payments are made and marriage occurs, the dowry demands by the groom's family frequently escalate and are accompanied by violence or other abuse against the wife.

The point here is not to paint MLAA's work as inferior to that of Samata or Banchte Shekha, but rather to indicate how survey research can be used to provide some indication of absolute and relative NGO impact. Furthermore, it must be noted that the population of the area served by MLAA is substantially larger (approximately one million) than those of the other two NGOs, and that MLAA has been a pioneer in introducing reformed approaches to *shalish* to other NGOs across Bangladesh. Especially in view of its small scale, then, the methodology employed here should be viewed as a basis for further inquiry in Bangladesh and beyond, rather than as a means of reaching any final judgments.

2. Multiple-sourced documentation of a single NGO's work in Bangladesh

Another form of integration of legal and socioeconomic development work can be found in the operations of Nijera Kori (NK), a Bangladeshi NGO that, like two of the NGOs from the Asia Foundation study, pursues socioeconomic development strategies that include rights-oriented and legal operations with and for its partner populatio

In 2003 the United Kingdom-based Institute of Development Studies (IDS) published a paper that compiled various survey and qualitative studies of NK's work. Among other things, the paper indicated a range of favorable impacts for NK partner populations, in many respects in comparison to control groups. These included differences concerning gender, land, interaction with government, and other variables. The paper also indicated numerous instances of NK partner groups undertaking favorable legal and rights-oriented work in these arenas.²³

For the purposes of this Guide, a noteworthy aspect of the IDS paper is that it pulls together various academic, donor and policy institute studies that partly or wholly document NK's work. A number of NGOs engaged in legal empowerment (and many other endeavours) have similarly been subject to multiple reviews of their activities, strategies and results. Yet all too often, perhaps even typically, such studies each stand alone. Neither the NGOs nor the researchers involved draw on these multiple sources in ways that can yield enhanced lessons and evidence of impact.

The IDS paper represents an exception to this unfortunate rule. For example, it integrates academic and donor studies as follows:

The impacts of [NK's] efforts have been documented in a number of studies (Ali *et al.* 1998; Netherlands Ministry of Foreign Affairs 1998). Some of these have been of the more conventional kind reported in relation to many NGO activities in Bangladesh. For instance a study by a Dutch evaluation team noted the higher levels of awareness demonstrated by NK members about such social issues as health, sanitation and family planning compared to other poor households within the same area. The study by Ali *et al.* (*op. cit.*) provides evidence that this awareness translated into practice. It found that the NK members were more likely to have hygienic "pit latrines" while other poor households in the same area were more likely to use less hygienic alternatives. Their children were more likely to attend

²³ Naila Kabeer, *Making rights work for the poor: Nijera Kori and the construction of "collective capabilities" in rural Bangladesh*, IDS Working Paper 200 (Brighton, U.K.: Institute of Development Studies, 2003).

both primary and secondary school than the children from other poor households. Furthermore, and in contrast to these other households, there was no evidence of gender discrimination in schooling among children from the NK group. Full immunisation rates for children under five were also much higher for NK households, but here there was evidence of gender discrimination among both groups.²⁴

The point here is that NGOs carrying out and researchers studying legal empowerment work would benefit by pulling together various studies as the IDS paper does, so that the sum is more than the whole of the parts.

3. Community participation in water use decision-making in Bangladesh

Bangladesh offers yet another example of the process and progress of integrating legal and socioeconomic development, and of documenting the results. A 2009 study conducted by the Asia Foundation for the ADB integrated a modest array of NGO legal empowerment activities into major ADB-supported projects in three countries: Bangladesh, Indonesia and Pakistan.²⁵ More specifically, the study integrated such activities on a pilot basis and documented the results. Its methodology included the following elements, the mix of which varied somewhat from country to country:

- Various types of training activities, meetings, media campaigns, limited legal counselling, dramatic presentations, exchanges and uses of media constituted the legal empowerment work.
- In each country, survey research conducted in two pilot sites and one control site at the outset of the study and at its conclusion sought to answer the following questions:
 - (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?²⁶
- Qualitative interviews supplemented the surveys, so as to develop a more nuanced understanding of the data.

In Bangladesh, the research indicated improvements in community participation in deliberations and decisions by Water Management Cooperative Association (WMCA) meetings,

²⁴ Kabeer, citing Netherlands Ministry of Foreign Affairs, 1998, *Evaluation of the Netherlands Development Programme with Bangladesh 1972–1996: Sub-report 19. Evaluation of Netherlands-funded NGOs 1972–1996*, Dhaka and A.K.M. Ali, Mustaque Masud and R. Sarkar, 1998, 'Struggle in the northern plains. an impact evaluation of Nijera Kori Program in Bagatipara', paper prepared for The Swallows, Dhaka: INCIDIN.

²⁵ ADB and the Asia Foundation, *Legal Empowerment for Women and Disadvantaged Groups* (Manila: ADB, 2009.) To avoid confusion, it is important to note that two Asia Foundation/ADB studies are discussed in this Guide. The aforementioned report by Golub and McQuay was published in 2001; the one discussed now was produced in 2009.

²⁶ *Ibid.*, 11.

as well as other positive results of the legal training and awareness activities conducted for the study. For example:

[T]he project increased people's confidence to approach the WMCA management committees independently, especially among women. There was also a large reduction in the percentage of women who had previously found it impossible to approach the WMCAs—exactly the opposite is observed in control areas.

The program interventions improved people's understanding about their legal rights. For example, people in the program intervention villages demonstrated a far better understanding of their eligibility to join the local WMCA compared with those villagers in the control districts...

There were better rates of loan recovery (microcredit) because more members repaid their loans. In the past, its general members overwhelmingly viewed the WMCA as mere vehicles of credit delivery, but the members now have a deeper understanding of the WMCA's multiple functions. As they developed an understanding of the WMCA's multiple functions, general members started asking questions about its operations. By the end of the pilot project, even issues like financial management, which the managing committees rarely discussed with general members, were discussed in the meetings. These discussions helped to allay the general members' doubts and suspicions about the WMCA. In addition, the general members and the managing committee of the local WMCAs collaborated to develop a work plan for future activities.

The pilot project also contributed to improved knowledge and protection of women's rights. In the program intervention areas, the WMCAs' general members commenced documenting the number of complaints made about rights violations.²⁷

4. Addressing women's legal problems via an urban housing initiative in Indonesia

The same 2009 Asia Foundation study also found initial indications of impact where, on a pilot basis, a women's legal services NGO provided assistance via an ADB-supported urban housing project in Indonesia:

Participants frequently praised the legal empowerment pilot for providing relevant information that could be immediately used... BKM (local neighborhood improvement committees) officers clearly benefited from the knowledge acquired through the training programs, and can be counted on to draw on this knowledge in supporting community members that face domestic violence and other forms of gender-based violence and in resolving legal problems that can affect the benefits

²⁷ *Ibid.*, 16.

that citizens draw from NUSSP (the Neighborhood Upgrading and Shelter Sector Project) and other development initiatives...²⁸

Even more than with the Bangladesh pilot project, the results were fairly modest due to the limited array of LE activities, the short time frame (12-18 months) and the difficulties of integrating LE work into a large, bureaucratic development project. Still, there were indications of improvement in legal knowledge and the potential for resulting action. And one point for the purposes of this Guide is that quantitative and qualitative methodologies can be combined to assess impact. Another, as demonstrated by the Foundation report, is that such an evaluation can yield valuable lessons that strengthen the efficacy of major socioeconomic development projects.

For example, as a result of the Indonesia pilot activity the report suggests the following regarding compensation for community members, effectiveness of training materials and engaging women's participation:

The ongoing design of the NUSSP could be improved by providing more employment opportunities for urban poor communities, particularly for the development of neighborhood infrastructure. Urban poor communities generally provided voluntary labor, while official contractors were paid by the project. The NUSSP would have a greater impact on the lives of vulnerable groups if it could provide partial payment to local communities for their labor contributions.

ADB's core objective for the NUSSP pilot project was to ensure that its planning and execution was as participatory as possible. Nevertheless, the project could be strengthened by developing materials specifically tailored to helping urban poor communities, taking account of their particular needs and constraints. For example, poor education standards are a pervasive problem that requires special strategies for sharing information in ways that are easily understood and applied. Women's participation in the project was extremely low. To combat this, the project could set a minimum participation level for minority groups and women (toward an optimal target of 50%, with initial targets in the range of 25–35%). The minimum participation level could be determined in consultation with leaders of these two critical target groups. This would ensure genuine participation by all groups and avoid the token participation that has occurred in the past.²⁹

Without passing judgment on these recommendations, one would hope that the ADB would take to heart advice on matters that pertain to both legal empowerment and more general project efficacy—appropriate training materials and increased participation by women. Regardless, the point here is that a legal empowerment evaluation can yield lessons reaching beyond LE.

5. Integrating a legal element into a reproductive health project in Senegal

²⁸ *Ibid.*, 20.

²⁹ *Ibid.*, 20-21.

In 2001 in Senegal, the domestic NGO TOSTAN employed funding from the German aid agency GTZ to undertake a two-year project geared toward reducing female genital cutting (FGC) and otherwise improving the situation of women in 90 villages in a region of the country. The project was basically a community education initiative focusing on hygiene, problem solving, women's health, and human rights, for women and men alike. Like NK in Bangladesh, TOSTAN is not a legal services NGO. But it nevertheless conducts rights-oriented operations. Its work arguably falls under the rubric of legal empowerment—a development activity can and should be considered such if it includes a rights-specific element, even if that element is not necessarily the most salient part of the project. Legal empowerment and gender empowerment are not mutually exclusive; quite the contrary, in fact.

In 2004 the U.S. Agency for International Development supported the Population Council, a prominent international research organization concerned with reproductive health and related issues, to survey women and men in 20 villages where the TOSTAN project took place and in 20 similar ones where it did not.³⁰ More specifically, the research involved the following:

All women and men participating in the education program were interviewed before and after the intervention, and again two years later, to measure women's and men's awareness, attitudes and behavior concerning reproductive health (RH) and female genital cutting (FGC). A group of women and men from 20 similar villages that did not receive the education program were interviewed at the same time to serve as a comparison group. To test the impact of the program on community members' willingness to abandon FGC, the proportion of respondents' daughters aged 0 to 10 years whose parents reported they had been cut was used as the primary outcome indicator.³¹

Its findings indicate that the project had multifaceted impact. For instance, it significantly enhanced both genders' awareness of human rights, gender-based violence, FGC and reproductive health in the project areas, both in an absolute sense and in comparison with the control populations. Even more significantly, there were also major drops in the reported prevalence of FGC for girls within the project communities.

One salient matter regarding this evaluation is the use of survey research to arrive at indications of impact. But the nature of the research and the organization carrying it out are equally as important. The research does not necessarily meet all of the most rigorous requirements of randomization, but it is nevertheless considered acceptable by a major bilateral donor and a leading research institute that conducts studies on reproductive health. Similar approaches, in the vein of not letting the perfect being the enemy of the good, should inform legal empowerment evaluation.

E. Criminal Justice

³⁰ Nafissatou J. Diop, *et al*, *The TOSTAN Program: Evaluation of a Community Based Education Program in Senegal*, FRONTIERS Final Report (Washington, D.C.: Population Council, 2004).

³¹ *Ibid.*, i.

Defending the rights of criminal defendants and prisoners is sometimes an overlooked aspect of legal aid and legal empowerment. It is all the more significant because such populations often suffer the loss of liberty without due process and even without trial.

In Malawi, the domestic NGO known as the Paralegal Advisory Service Institute (PASI) provides legal advice and assistance to convicted and particularly pre-trial (i.e., remand) inmates in the Prison Service's facilities. Its paralegals also help in police stations and the courts. PASI similarly has become active in legal reform efforts, not least those to establish a national legal aid scheme. With the help of the international NGO Penal Reform International, the Association of Paralegal Organizations, the Portugal-based Governance and Justice Group and like-minded allies in Kenya, Uganda, and other African countries, the PASI model has spread to several other parts of the continent.

In cooperation with the governmental institution with which it most closely collaborates, the Malawi Prison Service, the NGO (formerly known as the Paralegal Advisory Service project, or PAS) has compiled its own statistics over the years. It has summarized some of them in its own publication, which describes its work, impact, and cost-effectiveness.³² Most notably for the purposes of this Guide, the publication cites three highly favorable evaluations that have assessed and praised its operations.³³ As with the IDS study of the Bangladeshi NGO Nijera Kori, the significance of independent studies reaching similar conclusions is that they buttress the credibility of each other and of PASI. This in turn increases the likelihood that the organization is actually achieving noteworthy impact.

The PAS statistics and evaluations affirm that the work has substantially benefited remand prisoners who otherwise would languish in jail awaiting trial, often beyond their legally mandated periods of pre-trial detention. The most recent evaluation further indicates the project's impact on replication in other countries, on advancing a national legal aid scheme in Malawi, and in facilitating government-NGO cooperation.³⁴

³² *Where there is no lawyer: The Paralegal Advisory Service Institute (PASI): Bringing Justice to the Poorest of the Poor* (Lilongwe, Malawi: PASI, 2007).

³³ Fergus Kerrigan, "Energizing The Criminal Justice System In Malawi—The Paralegal Advisory Service: An Evaluation Report for Penal Reform International," prepared for PRI and the (now) Danish Institute for Human Rights (DIHR), 2002; Thomas Trier Hansen, "Paralegal Advisory Service (PAS): Evaluation of Activities, 2002-2004," prepared for DIHR, 2004; and Martin Pierce, "The Paralegal Advisory Service (PAS), Malawi: 'Changing the Landscape'," prepared for the U.K Department for International Development, 2007.

³⁴ Pierce, *op. cit.*

