



Making Everyone Work for Legal Empowerment of the Poor

Report of the Regional Dialogue on
Legal Empowerment of the Poor
3-5 March 2009, Bangkok

We are extremely grateful to all who participated in the Legal Empowerment of the Poor Regional Dialogue, held on 3-5 March in Bangkok. A diverse and committed group of approximately 80 government officials, CSO representatives, UN and international organisation representatives engaged in a rich and lively discussion, which was greatly enhanced by many excellent presentations.

We would also like to thank Ms. Paula Beltgens, our dialogue facilitator, for managing such a full and complex agenda, being a strict time-keeper, and ensuring that all voices were heard.

*The Legal Empowerment Team
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Executive summary

This report brings together the global, foundational work of the Commission on Legal Empowerment of the Poor and provides a regional perspective on legal empowerment from discussions at the regional dialogue. The report highlights key issues, offers recommendations for national implementation and outlines the potential role of a regional partnership in furthering the legal empowerment agenda throughout the region.

For many countries in the region legal empowerment of the poor is being introduced in a time of global economic downturn. The effects of the financial crisis threaten recent achievements made in reducing poverty. It is, therefore, more imperative that the livelihoods, assets and businesses of the poor are sufficiently protected to ensure that their economies are able to continue to grow and develop in line with international human rights standards.

Regional Perspectives on CLEP pillars

Access to Justice is the *foundation* of legal empowerment of the poor. It is best envisaged as a process by which a range of different inter-related factors combine to enable individuals to obtain a satisfactory remedy for a grievance. In the Asian region, informal justice systems are used more frequently by the poor. The strengths and weaknesses inherent in both the formal and the informal systems must be acknowledged and addressed.

Access to Justice is not merely a ‘pro-poor programme’. It is driven by the real circumstances of the poor. As highlighted at the dialogue, it is particularly important that the poor are empowered as claim holders and are able and encouraged to demand better access to justice. This will stimulate and steer the legal empowerment agenda based on their actual needs. Community legal awareness initiatives grounded in un-intimidating, accessible and simplified language have been identified as a priority. Other recommendations include increasing support of cost effective and acceptable means of extending legal services, including training paralegals, developing alternative dispute resolution mechanisms, encouraging public interest litigation and community based organisations to collectively represent concerns directly to local governments.

A key concern raised at the dialogue was the role of government institutions and law enforcement authorities in facilitating access to justice. At all levels, authorities should adopt a human rights based approach to justice reform, especially for the criminal justice sector. This is an area underemphasised by the Commission, which featured strongly during the dialogue. There is also a need to harmonise legislation with cultural practices, a process which can only be done through participatory means.

Those with vested interests in maintaining a continued state of ‘legal disempowerment’ of the poor will perceive the ‘redistribution’ of justice as a zero-sum game. Non-government organisations, civil society organisations and the international community must create incentives and provide compelling evidence of the long term benefits.

Legal identity has been repeatedly acknowledged to be integral to accessing justice. There are a number of challenges to universal registration in the region however, significant

breakthroughs are being made in certain countries and best practices can and should be shared regionally.

Labour and Business Dimensions

Informality in the business and labour sector is of growing concern in the region. Most often it is not informality itself which causes problems - there are countless examples of the informal sector supporting and servicing their formal counterparts - rather it is the barriers faced by the informal sector in accessing the protections typically extended through the mechanics of formality.

Opening the opportunities and protections of the law to informal workers is a key element of legally empowering the poor. This protection is particularly important during the global financial crisis as shocks will knock people further down the poverty ladder.

Typically women, migrant workers, minorities, indigenous peoples and the very poor suffer the most in the informal sector as they are often exposed to extortion, 'rent-seeking', discrimination, harsh working conditions, threats, confiscation of assets and abuse. Often this injustice comes at the hands of those in authority.

The regional dialogue highlighted the following priorities:

- Development and enforcement of a minimum floor for labour rights and social protection;
- Pro-poor legislation reform including a push for 'legitimate space to trade';
- Increased government, CSO and international support for workers unions and similar groups.

Suggestions as to how these groups could maximise their effectiveness included exploring the possibility of issuing worker/labourer/small business owner identity papers and contributing to national efforts to measure the informal economy.

Property Rights

Secure property rights can facilitate economic transactions, ensure efficient and sustainable resource use, allow for the evolution of effective credit markets, improve business climate and investment opportunities, and establish economic accountability and transparency. Additionally, legitimate property rental or ownership grants cheaper access to basic services such as water, electricity and sanitation.

In Asia property titling can be slow and expensive. This is an area in which discrimination of marginalised groups can be a major barrier to equitable protections and opportunities for the poor.

Issues of land titling are often deeply sensitive as these are often zero-sum games. This is an area of concern among nations in the region. As populations grow, possibilities surrounding community-based land management systems and inclusive property rights systems should be explored. Particularly, the rationalisation of national policies on land and natural resources must be harmonised with state and customary laws. It is critical for the region as a whole to

protect the livelihoods and cultures of indigenous peoples, and ethnic minorities inherently tied to the land on which they live and work.

11 Key Implementation Issues

National Ownership: Legal empowerment of the poor must be a nationally driven process.

Political Will: Without the commitment to reform and the political will to empower the poor, it is difficult, if not impossible, to move to implementation.

Champions: To kick-start as controversial and deep-seated a change as legal empowerment — an approach that threatens many vested interests — the role of national political leadership is critical.

Implementation: It is insufficient to have laws only on paper as these laws will mean nothing if they are not implemented. Legal empowerment of the poor requires a systemic change of service provision across all levels.

Role of Civil Society: Legal empowerment must reflect the real priorities and circumstances of the poor - it is therefore crucial to partner with civil society and the poor themselves.

Involvement of the poor: The poor should be the co-designers and facilitators (rather than the object) of legal empowerment initiatives.

Access to justice: Access to justice is the *foundation* of legal empowerment, on which the pillars rest.

Build on what has already been done: Initiatives in LEP must learn from work that has already been done, such as the extensive work on access to justice through the Asia Pacific Rights and Justice Network.

Human Rights Based Approach: It is critical to remain focused on the poor and the problems of the poor. The Human Rights Based Approach framework has this focus and can guide the LEP process and outcomes.

No one size fits all: Initiatives need to be context specific.

Working together: Donors and international organizations need to work better together and have a coordinated response on LEP.

National level entry points

Specifically, national and sub-national initiatives should be identified through a national consultation on legal empowerment of the poor. Such national consultation processes should bring together government, civil society, the poor and the private sector and should be informed by research papers commissioned on each the four pillars of legal empowerment in order to identify the current situation and key legal empowerment issues in a given country.

There are several ongoing access to justice projects and programmes in the region which have already compiled best practices and developed tool-kits and guides. This report recommends as an obvious entry point ongoing access to justice initiatives and expanding these to include the other pillars of legal empowerment, as appropriate to country contexts.

The United Nations General Assembly took note of the Commission's Report 'Making the Law Work for Everyone' in December 2008 (GA Resolution A/63/L.25/Rev.1). It stressed the importance of sharing best national practices in the area of legal empowerment of the poor, and requested the Secretary-General to submit a report at the General Assembly's sixty-fourth session detailing national experience in this area.

Role of a regional partnership

There are varying degrees of sensitivity towards legal empowerment of the poor in different countries across the region. It may not always be possible to convene dialogues at the national level. A regional partnership would be useful for providing peer pressure and advocacy from an external source. This should stimulate discussions at national level and help to change entrenched ways of thinking about issues such as the situation of migrants, land rights of indigenous peoples, identity, and informality.

A regional approach can help in building political will. It can also bring together and support reform minded government officials from the region. However, to be really effective, the regional partnership must respond to the demand of countries and not be supply driven.

Development and distilling of knowledge

There is rich experience on legal empowerment of the poor across the region, which needs to be documented and shared. The regional partnership could develop various knowledge products across a selection of themes nominated at the dialogue and over continuing discussions with relevant stakeholders.

Immediate responses from the UNDP Regional Center in Bangkok would be a publicly available, on-line legal empowerment knowledge bank, featuring relevant documents on legal empowerment, information on existing projects, tools, and the documents from this regional dialogue. Monthly email digests of upcoming events, new knowledge products, legal empowerment news from countries in the region, and partnership activities could also be made available.

Building evidence for legal empowerment of the poor

Advocacy is crucial to win support for legal empowerment of the poor. At the core of advocacy is objective evidence. Decision-makers are more likely to give their endorsement and allocate resources if convinced that legal empowerment can make a significant difference to national development goals. Empirical research, comparative analysis of before-and-after interventions, and effective impact evaluations are needed.

The regional dialogue raised thought-provoking considerations on measuring success in legal empowerment and the utility of a specialised index through which to monitor progress. Undoubtedly requiring further development, the issue of 'measuring' legal empowerment cannot be avoided.

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Introduction

The Report of the Commission on Legal Empowerment of the Poor (co-chaired by Madeleine Albright and Hernando de Soto), *Making the Law Work for Everyone*, encapsulates the contributions of distinguished and experienced people who have been seeking ways and means to cast away the curse of poverty that continues to afflict much of humanity, despite decades of development efforts. It identifies the lack of the full protection of the rule of law for nearly four billion people as the ‘missing link’ responsible for disappointing development results.

When the Report released in June 2008, UNDP Administrator Kemal Dervis noted that:

“legal empowerment is an agenda for and with the poor, and while it is based upon a strong belief in their capabilities, it also emphasizes the role of the state. It challenges the state to become more open and inclusive, and to expand its reach to benefit the poor.”

He also added that:

“UNDP’s ongoing efforts in areas such as promoting access to justice, inclusive markets, better inheritance and property rights for women, as well as securing labour rights through the Decent Work agenda (on which we have been working very closely with the International Labour Organization) is guided by the belief that legal empowerment is essential for human development.”

The United Nations General Assembly took note of the Commission’s Report in December 2008 (GA Resolution A/63/L.25/Rev.1). It stressed the importance of sharing best national practices in the area of legal empowerment of the poor, and requested the Secretary-General to submit a report at its sixty-fourth session on the legal empowerment of the poor, taking into account national experiences in this regard.

An important motive for UNDP Regional Centre in Bangkok (RCB) for organising this regional dialogue is the Commission’s recognition that regional and sub-regional political bodies should be central to the legal empowerment process.

In addition to the key objective of identifying and supporting national policy initiatives on legal empowerment of the poor, this regional dialogue focused the functions of a regional facility or partnership to develop outputs recommended by the Commission, such as:

- Guidance and best-practice documents.
- Policy documents with standards and criteria for national implementation.
- Regional cooperation programmes.

Protection of law is essential for people living in poverty to shield them against oppression, create economic opportunities, and enable them to secure decent standards of living with dignity.

– Olav Kjørven

- Common statistical standards, indicator sets, and targets.
- Regional Legal Empowerment Compact involving key stakeholders.

UNDP has already responded to the Commission’s call to establish and lead a global steering committee to ensure broad ownership and follow-up of the Legal Empowerment agenda. The regional dialogue reported here, is the first step towards creating regional resources for legal empowerment of the poor. It should enable linking global initiatives with policies and programmes at national and local levels. UNDP should be positioned to provide seamless support to the legal empowerment of the poor agenda.

Legal empowerment in the context of current global economic crisis

The global economic crisis will escalate the demand for justice among the poor as the need to protect their assets, their livelihoods and their right to be free from discrimination becomes even more urgent.

The financial downturn will threaten the security of land tenure of millions of working poor as they face destitution, forced eviction and land grabbing,” warned Hamid Rashid, UNDP Senior Advisor on legal empowerment. “With rising unemployment, wages are likely to fall, working conditions to deteriorate and labour rights to be violated”.

The economic downturn in the region will threaten many of the achievements made in advancing human rights principles in labour, doing business and property. The need to address the resilience of the livelihood system is of utmost importance in ensuring that the advances in poverty reduction recently gained in the region are not lost to future generations. Similarly, progress in improving labour standards could be challenged as jobs are cut and people become more desperate for paid work. Insecurity of property and other assets will weaken the position of the poor to weather the shocks as they inevitably flow through the formal and informal sectors.

LEP as an approach can make a major contribution - with its focus on the two central conditions of ‘identity’ and ‘voice’

– Dan Banik

“Don’t just bailout banks, bailout voices of the people who have been swept under the carpet - women, indigenous, the Dalits” said John Samuel, International Director of Action Aid.

Extending the protections of the law to the poor will provide security to prevent legal exclusion and in doing so, foster economic growth and prevent people from sinking further into poverty.

The Concept of Legal Empowerment

Legal empowerment acknowledges that increased realisation of rights and protection of assets and livelihoods results in increased economic opportunity and equitable justice. However, none of these can be achieved in a vacuum. The Commission for Legal

Empowerment of the Poor defines the concept of legal empowerment as a continuum of conditions, pillars and goals, as the table below illustrates.

<p>Conditions for Legal Empowerment</p>	<p>If a citizen has Identity:</p> <ul style="list-style-type: none"> • Identity and legal status as a citizen • Identity and legal status as an asset holder • Identity and legal status as a worker and/or identity and legal status as a business person. <p>And if she has Voice:</p> <ul style="list-style-type: none"> • Information and Education • Organisation and Representation.
<p>Pillars of Legal Empowerment</p>	<p>Then she is better equipped to claim her Rights:</p> <ul style="list-style-type: none"> • Rule of Law and Access to Justice • Property Rights • Labour Rights
<p>And through Systemic Change</p>	
<p>Goals of Legal Empowerment</p>	<p>She will gain Access:</p> <ul style="list-style-type: none"> • Access to Justice • Access to Assets • Access to Decent Work • Access to Markets <p>And in doing so, reach the Goals of Legal Empowerment:</p> <p>PROTECTION of assets, livelihoods, greater physical and economic security</p> <p>OPPORTUNITY for economic growth and social development</p>

Key considerations in implementing legal empowerment of the poor

National Ownership

Remember that poverty has colour, gender, age and class. It is not only about numbers.

Legal empowerment of the poor must be a nationally driven process. National ownership (by governments, civil society and community) is absolutely necessary for legal empowerment of the poor to have any impact. UNDP and development partners cannot move the legal empowerment agenda on their own. While development partners can advocate, support and facilitate, LEP has to be a nationally owned process. A supply driven agenda must be avoided.

Political Will

- John Samuel

Without the commitment to reform and the political will to empower the poor, it is difficult, if not impossible, to move to implementation. Commitment and political will depend upon incentives; thus it is critical to identify and create reasons for government and other entrenched interests to back legal empowerment.¹ It is also important to recognize that incentives are different at different levels of government. It therefore becomes necessary to disaggregate incentives of various policy makers.

It is important for the UN to not do things for the country, but with the country. Do it, facilitate, and get out of the way.

Champions

To kick-start as controversial and deep-seated a change as legal empowerment — an approach that threatens many vested interests — the role of national political leadership is critical. The degree of initial government support for any policy derives from domestic leaders who share a perception of a problem and who have agreed on how to solve it. One or a few of these people may emerge as policy champions, who make a policy their signature issue and drive it forward over time. It is necessary to identify such champions, work with them and support them in order to garner more broad based political will towards LEP reforms.²

- Erna Witoelar

Implementation

Why does the national access to justice strategy exist in Indonesia? It exists because Diani Sadiawati was a champion. You need to have champions of reform.

It is insufficient to have laws only on paper as these laws will mean nothing if they are not implemented. Much of the discrimination and violation of rights of the poor stems from non-legislated actions, such as bad practices among government officials. Despite sometimes having low positions in the bureaucratic hierarchy of government, these officials can and do wield considerable effective discretionary authority over implementation. One common problem is that permits, business licenses, tax assessments and the like are sources of power and potential illegal income through bribes, kickbacks and other “rent-seeking” behaviour. The interests and attitudes of government officials at all levels must therefore be factored into the implementation process.³

Role of Civil Society

- Matt Stephens

Legal empowerment must reflect the real priorities and circumstances of the poor - it is therefore crucial to partner with civil society and the poor themselves. It is also important to recognize and acknowledge the differences among civil society organizations - some are membership based, while others are client oriented.

¹ Commission on Legal Empowerment for the Poor *Making the Law Work for Everyone: Volume II*, 2008.

² Ibid.

³ Ibid.

Judicial reform doesn't equal justice... you have to stay focused on the individual and the individual's problems

– Sanaka Samarasinha

Many issues begin small, and eventually become important as a result of civil society activism. As time goes by civil society activism becomes more sophisticated and issues get on the policy agenda. Initiatives are subsequently scaled up and the impact is increased. Civil society can be an important catalyst for action.

The most likely CSOs to initiate action will be membership based organisations such as trade unions, farmers and fisher-folk groups, women's groups, faith based organisations, associations of waste pickers, street vendors, taxi drivers etc. Their role in legal empowerment of their constituents will be a natural extension of their current roles in protecting and fighting for the rights of their members and in seeking new economic, social and political opportunities.⁴

The Human Rights Based Approach gives us a good approach to target a range of problems

- Stefan Priesner

Involvement of the poor

The poor should be the co-designers and facilitators (rather than the object) of legal empowerment initiatives. Similarly, laws and policies for the informal sector must be developed and implemented through a participatory process with those in the informal sector.

Access to justice

Access to justice is the *foundation* of legal empowerment, on which all else rests.

Build on what is already underway

Initiatives in LEP must learn from work that is ongoing, such as that on access to justice, motivated by the Asia Pacific Rights and Justice Network.

Legal Empowerment of the Poor is not necessarily about creating new laws or reforming current institutions. It's about creating incentives.

- Hamid Rashid

Human Rights Based Approach

It is critical to remain focused on the poor and the problems of the poor. The Human Rights Based Approach framework has this focus and can guide the LEP process and outcomes.

No one size fits all

Initiatives need to be context specific.

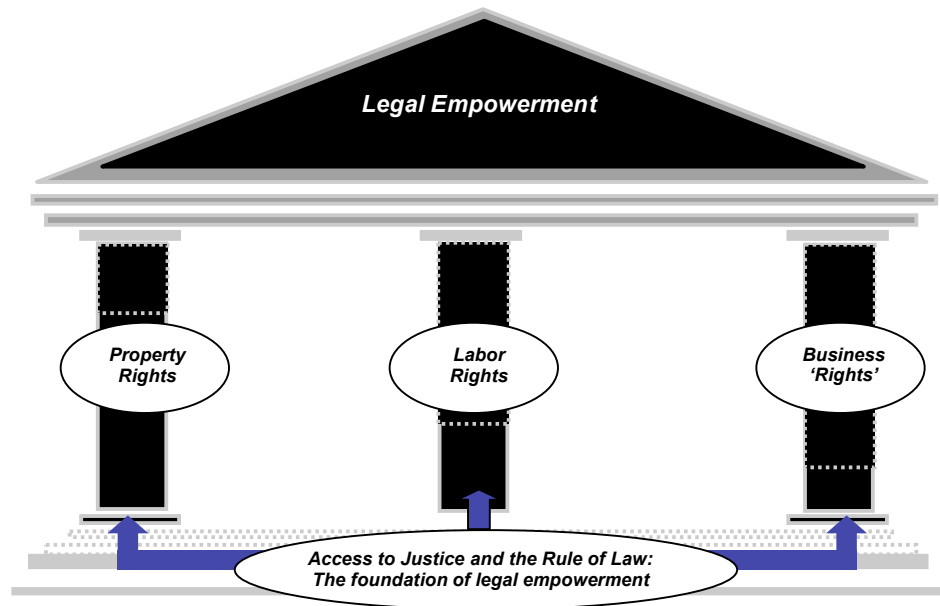
Working together

Donors and international organizations need to work better together and have a coordinated response on LEP.

⁴ Naresh Singh, Keynote presentation at the regional dialogue on legal empowerment of the poor, 3-5 March 2009, Bangkok.

Access to Justice and the Rule of Law: The foundation of legal empowerment of the poor

Access to justice is the right which guarantees all other rights. *It is the foundation of legal empowerment.* Legal empowerment is impossible when poor people are denied access to a well functioning justice system. Where just laws enshrine and enforce the rights and obligations of society, the benefits to all, especially the poor, are beyond measure.⁵ Reforming the law on paper however, is not enough to change how the poor experience it day to day. Even the best regulations do not help the poor if the institutions enforcing them are ineffective, corrupt or captured by elites.



‘Access to justice’ is perhaps best envisioned as a process by which a range of different inter-related factors combine to enable individuals to obtain a satisfactory remedy for a grievance. Such factors include, but are not limited to, an adequate legislative framework, basic community legal awareness and functioning formal and informal institutions of justice that are accessible in physical, economic and intellectual terms.

It should be remembered however, that injustices are not always the fault of anti-poor legislation; they may present themselves in a variety of un-legislated forms, for which the law provides no clear remedy but the unrest of injustice remains.

The key elements of the access to justice process:

The **Normative Framework** can be either formal or informal in nature. Formal norms can be reflected in documents such as constitutions, national legislation, government and regional regulations, and jurisprudence produced by the courts.

⁵ Commission on Legal Empowerment for the Poor *Making the Law Work for Everyone: Volume I*, 2008.



Informal norms evolve through social interaction and reflect customs and accepted behaviours. The normative framework has both the capacity to protect and defend the interests of the poor, but also has the potential to perpetuate injustices and inequities.

Community Legal Awareness is critical to securing access to justice. At the extreme, poor and disadvantaged citizens may be unable to exercise their rights because they are simply unaware of them. More commonly, citizens may be aware in general terms that they have been wronged in some way, but be unable to point to a right that has been breached and be unaware of how to seek redress for their grievance. Community legal awareness means that citizens are able to recognise a situation in which they may have legal rights and know when and how they should seek further assistance, and from whom.

In seeking remedies for their grievances, knowledge alone is clearly not sufficient – the poor and disadvantaged require adequate **Access to Appropriate Forums** from both a geographic and financial perspective. An appropriate forum may be either formal or informal, and may include local government offices and processes not normally associated with the formal justice sector. Informal justice systems deal with the majority of disputes in the region.

The opportunity to obtain legal advice is imperative to accessing justice. Legal aid services, even where they exist, are highly under-funded and inadequate. Even where poor people obtain legal support, the quality of this is not comparable to that obtained by the rich. This can affect the balance of justice in favour of the rich.⁶

Effective Handling of Grievances and Provision of Remedies entails the impartial, timely and consistent application of applicable norms by formal and informal justice institutions, free from corruption or political intervention and in accordance with national and international human rights standards. Effective handling of grievances includes the provision of adequate legal representation when required, the timely enforcement of remedies, and accountability to the public for performance against agreed service standards.⁷

Legal Identity: Integral to accessing justice

Despite the fact that every individual has a right to a legal identity, there are still innumerable people in the world who do not have their identities legally recognised. Citizens who are not registered may face insurmountable barriers as they attempt to access a whole range of services essential for overcoming poverty. She may be unable to attend school, obtain medical services, vote in elections, get a driver’s licence, or open a bank account. She may be excluded from anti-poverty programmes designed for her. In many cases those who lack a formal identity may be vulnerable to child labour, early marriage, human trafficking or the many problems associated with statelessness.

Many unregistered members of forest based communities become ‘stateless’ because of their movement over or near borders

– Denison Jayasooria

⁶ Ibid.

⁷ United Nations Development Programme, *Justice for All: An Assessment of Access to Justice in 5 Indonesian Provinces*, 2007.

Remember that there are issues with who is authorized to grant legal identity.

– Bibek Debroy

There are challenges in achieving full coverage of registration which must be considered in designing programmes to meet this most basic of rights.

1. Some countries lack an effective system for providing accessible, low-cost registration services for all.
2. Denial of legal identity as a result of a deliberate interest in excluding certain groups from full participation in the economy, polity, and public sphere. Particularly in the cases of long-term migrant or refugee populations the issue may be more complicated and may implicate the policy of more than one state.
3. Conscious decisions by citizens to avoid registering because of an ingrained distrust of state authorities, significant disincentives to registering such as cost or distance to registration posts, and/or no clear benefits arising from obtaining legal identity.

Possible solutions

Barriers	Possible solution
Initial costs or late fees	Costs should be met through lump-sum budget allocations made out of general public revenues rather than through user fees. The national government could decide to initiate a year of free registration to all, with reduced costs thereafter, as was done in Bangladesh 2007-2008
Distance	Mobile registration units are cheap and can reach even remote communities
Corruption and inefficiency	Multiple avenues through which to register – rather than forcing people to rely on one service provider, the client would be able to select the method which is easiest, cheapest and most reliable to her.
Lack of knowledge of the importance of registration or where to register	It is necessary to conduct effective and accessible information campaigns across the country. This can include linking registration with vaccinations where vaccination rates are high.
Lack of capacity or resources	National governments can consider collaboration with the private sector, religious groups, NGOs, the civil service, or the armed forces. Governments may wish to consider relying on organizations with requisite information technology infrastructure – Groups such as private firms, civil society organizations, governments, or some combination of all of the above could set up offices where people can register themselves using a simple interactive computer system.

A recent Asian Development Bank report, based on findings in Nepal, Cambodia and Bangladesh notes that, by itself, legal identity documentation does not grant more people opportunities to open bank accounts, apply for credit, permission to travel and work abroad, *if those opportunities do not exist in the first place*. These findings stress that efforts to improve registration need to accompany continuous efforts to build the capacity to protect these rights.⁸

Conclusions and recommendations on access to justice from the regional dialogue

- The process must begin with a National Consultation specifically driven by a ‘bottom-up’ assessment (see section on Implementation).
- Building the capacity of claim holders to demand better access to justice is imperative. Legal awareness programmes will be more successful if they adopt HRBA – they should be accessible, use simplified and/or local languages. Where the clients are likely to be illiterate, pictures and diagrams should be used to explain roles, responsibilities and issues clearly. Legal awareness programmes should be available throughout the country, particularly in rural areas and they must be actively non-discriminatory and targeted to vulnerable groups such as female heads of households, indigenous peoples, migrant workers, and the very poor. Included in this is greater support of community based organizations.
- Harmonisation of legislation with cultural laws and practices. Laws and law reform need to be developed through a participatory process and responsive towards collective and group rights.
- Support cost effective and acceptable means of extending access to justice. This can involve training paralegals, developing programmes for law students, encouraging community based organisations to mobilise and represent concerns collectively.
- Support and develop methods of alternative dispute resolution, including small claims courts, as well as arbitration, mediation and conciliation. Such mechanisms are often preferable to the poor because they are more accessible than courts. They are also generally more affordable, more comprehensible and often more effective.⁹
- Police, law enforcement and other justice related institutions must undergo human rights training. As these bodies represent the ‘face’ of justice in most domestic contexts, particularly for the poor, their service will directly impact the quality of justice to which the poor have access.

⁸ According to ADB’s 2007 report ‘Legal Identity for Inclusive Development’

⁹ Commission on Legal Empowerment for the Poor *Making the Law Work for Everyone: Volume I*, 2008.

Economic war against street vendors

Municipal laws in Delhi provide that it is illegal to vend without a municipal licence. But municipal agencies stopped giving out licenses decades ago. The mismatch between demand and supply leads to corruption.

Delhi has at least 400,000 vendors but less than 3,000 licences.

Street vendors are made to feel like criminals and regularly face confiscation of goods or beatings and abuses.

- Madhu Kishwar

Business and Labour Dimensions

The poor don't have jobs, they do jobs.

– Naresh Singh

The majority of workers in the region are in the informal sector. The exact figures on this remain unclear as there has been insufficient effort to effectively measure the size and growth of the informal sector.

Who are informal workers?

There are a number of categories whose circumstances should be considered separately when referring to 'informal workers'. The CLEP Working Group report lists the categories as: employees of informal enterprises; casual day labourers; homeworkers or home-based producers; domestic workers; contract labour for formal firms; migrant labourers.

Often the business [of an informal worker] doesn't have an independent legal personality of its own. The risk is taken by the person concerned... It is yourself and your enterprise that is one and the same.

– K.P. Kannan

Informal workers often do not enjoy the protection of the law in fundamental areas such as health and safety, minimum wage, non-discrimination, and the security of contractual obligations. They are more often exposed to corruption and rent-seeking as they are forced to operate not illegally, but on the outskirts of the law. For many, the punishments are severe.

Home-based workers

Of the many categories of informal workers, home-based workers typically have the least security and lowest earnings. Home-based work exists in a wide range of sectors, including personal services such as shoe repair and childcare, clerical services such as data processing and invoicing, handicraft production, and manufacturing. Home-based work is a growing global phenomenon, with over 100 million people working from their homes, in countries both rich and poor. The vast majority are women, who often face the double burden of performing both paid market work and unpaid care-giving work in their homes.

Isolated and often entangled within complex chains of contractors and subcontractors, home-based workers face significant challenges in organizing themselves collectively. Despite this, home-based workers' organizations in several

Businesses tend to be more attracted to informal and unregistered workers for dirty, dangerous and degrading jobs

– Simrin Singh

Raising the awareness of government officials in relation to legal empowerment is more important than raising awareness among poor people.

– Shalini Trivedi

You can balance protections for workers with competitiveness.

– Tuomo Poutiainen

countries have achieved important victories, including coverage by minimum wage laws and access to social security and health care programs.¹⁰

Workers in the informal or unregulated sector labour under health and safety conditions that are not compliant with industry standards. In the case of injury, informal labourers, who are likely to lack proper identification, have no means of gaining access to the judicial system. Even if workers do gain access to the courts, they are unable to seek appropriate redress as they seldom possess documented labour contracts.¹¹

Women and the informal sector:

Under a system where poor labourers have no legal recourse, employers are able to overlook regulations, pay employees poorly and discriminate on the basis of gender. Reports from Bangladesh, India and Indonesia found that poor women earned less per hour than their male counterparts. Women who work in small enterprises or who endeavour to form their own are confronted by a social structure that is unwilling to provide them with the same support and patronage that is given to men. Indonesia's national consultation on legal empowerment of the poor noted that it is far more difficult for women who work in small enterprises to obtain credit or loans from local banks.

India's National Consultation cited effectiveness of cooperatives supported by local NGOs as a step forward in the legal empowerment of women. The engagement of women from the grass-roots level will give their concerns a more central voice. NGOs have a vital role to play in encouraging local banks to award more loans to women entrepreneurs or home workers and putting a voice to their concerns can help shift the balance in the way policies affect their livelihoods.¹²

Conclusions and recommendations on business and labour from regional dialogue

- There is a need to ensure through law, minimum standards for labour rights and social protection. Labour laws are generally effective only when there is a formal employer/employee relationship. If the relationship remains informal and without a contract, the reach of the law in protecting the worker is weakened and therefore the laws should also cover informal sector workers.
- Informal workers need voice, visibility and representation. Workers unions should be encouraged and creative opportunities sought to maximise their effectiveness, such as unions providing workers with identification cards, collectively bargaining for better labour rights, and liaising with international organisations.
- Governments should be encouraged to cooperate with the ILO to improve workers rights in factories by linking trade to development. In Cambodia, for example, information regarding labour regulations and working conditions is provided to

¹⁰ Lund, Francie & Nicholson, Jillian, *Tools for Advocacy*, 2006.

¹¹ Ibid.

¹² Commission on Legal Empowerment of the Poor, *Towards a regional compact on legal empowerment in Asia*

There certainly is an interest [from workers] in moving from the informal to the formal sector. But there has to be a conducive environment to do so.

– Asif Chida

international buyers and factored into their sourcing decisions. Factories have incentives to improve workers rights as it has tangible effects on business. Buyers appreciate receiving the information for their corporate social responsibility programmes..

- Strengthen the statistical base of informal labour, including, where possible, data on the benefits of legally empowering workers.
- Opportunities to extend support to small or informal businesses should be explored in a number of areas such as streamlined and cost effective registration processes, skill development, and collectives for public interest litigation.
- Develop legitimate spaces to trade and support with necessary legislation and law enforcement training. In Thailand, street vendors not only supply the formal sector with safe and affordable services, they have become a tourist attraction in their own right adding to the economic and cultural vibrancy of cities. These spaces and opportunities must be equitably accessible for women, indigenous peoples and ethnic minorities.
- Use legal empowerment as a driver for gender equality and increased opportunity for indigenous peoples in business and labour.

Property Rights

When land laws are liberalized, we see that in three months a private company can get land with title. However, even in these liberalized circumstances, to get land to house the poor takes years, if it happens at all.

– Shalini Trivedi

Secure property rights facilitate economic transactions, ensure efficient and sustainable resource use, allow for the evolution of effective credit markets, improve business climate and investment opportunities, and ensure economic accountability and transparency.¹³ The urban poor are managers of complex asset portfolios which are exposed to shocks and stress, and the poorer the household, the lower its ability to cope with such crises. Urban households often cope by diversifying their income sources (including illegal ones). However, the one asset they can least afford to lose, is access to housing in the city. However small or squalid a shanty may be, it represents probably the largest investment its owners have ever made. Its loss through eviction often leads to a downward spiral of homelessness, marginalization and further poverty. Thus, insecure housing and land tenure is the main source of vulnerability for the urban poor.¹⁴ The likelihood therefore, that the poor will leverage this valuable asset to gain credit, and potentially risk losing the title entirely, will depend greatly on a number of considerations and should not necessarily be assumed as an automatic response to formal titling.

Lack of property titles disadvantages owners, whether individuals or businesses, in numerous ways. For example, they:

- **Have less access to public infrastructure than titled landowners.** Only when landholders have official addresses and land deeds do municipal utilities find it

¹³ Commission on Legal Empowerment for the Poor *Making the Law Work for Everyone: Volume I*, 2008.

¹⁴ Ibid.

financially feasible to incur the fixed costs of installing power and phone lines, and other services. Residents of informal settlements have no such services and are forced to spend time meeting basic needs, such as traveling to find water.

- **Have little incentive to invest in their land** because there is no guarantee that the resultant increase in value will accrue to them, especially if eviction is a possibility. In a community of squatters, for example, dwellers often have little incentive to work to collectively better their immediate surroundings because they face risk of eviction.¹⁵
- **Do not have easy and fair access to credit.** Without formal property titles to assets of an enterprise, small entrepreneurs often have difficulty obtaining loans to start businesses.

It is in this land that [forest based communities] have their history, their burial grounds, their hunting and foraging land. It is their heritage and identity.

– Denison Jayasooria

Property rights as they pertain specifically to women and indigenous communities

Property rights are likewise tied to the livelihoods and social status of marginalized groups, including women and indigenous peoples. Forced evictions, lead to a sense of insecurity among women.

Asia is a traditionally patriarchal society and the loss of a home represents a breakdown in social infrastructure and leaves women feeling increasingly vulnerable and insecure. Women with strong property rights are less likely to become economically vulnerable in their old age or in the event of widowhood or divorce.

Several countries have taken steps to require joint titling of land in the names of husband and wife, bolstering women's effective right to land, particularly during the husband's absence. In addition to the direct economic benefits of property ownership, property rights may serve to empower women within the community and society at large. World Bank research shows a positive relationship between the amount of assets a woman possesses and the share of household expenditure devoted to food, education, health care, and children's clothing.¹⁶

Indigenous peoples experience a loss of community when their lands are forcibly taken without due process. Tribal communities maintain their own systems of property allocation and have little recourse against the state or private companies when their land is appropriated. A failure to integrate local norms within the legal framework of the state has facilitated a cycle of injustice. The national consultation process in Indonesia suggested that new strategies for integrating indigenous practices with formal legal systems be implemented in addition to issuing compensation for tribal lands taken for their agricultural and economic value.¹⁷

¹⁵ Commission on Legal Empowerment of the Poor, *Overview Paper*, 2006

¹⁶ Palacio, Ana, *Legal Empowerment of the Poor: An Action Agenda for the World Bank*, 2006.

¹⁷ Commission on Legal Empowerment of the Poor, *Towards a regional compact on legal empowerment in Asia*.

Conclusions and recommendations on property rights from regional dialogue

- Develop capacities of vulnerable groups who might be susceptible to extortion, rent-seeking, being ‘tricked’ out of land titles, confused and bullied by authorities or large companies.
- Support the development of an inclusive property rights system and rationalisation of national policies on land and natural resources – particularly the harmonisation of state and customary laws.
- Ethnic minorities and/or indigenous peoples should be allowed to maintain their territorial autonomy and sovereignty over their land. This should include stewardship over natural resources.
- Explore further community-based land management systems, particularly as they pertain to joint management and profit sharing from sustainable management of natural resources.
- Develop specialised alternative dispute resolution or complaints mechanisms in line with guidelines for access to justice and a HRBA.
- Women’s ownership and use rights over land and property may be a sensitive area due to cultural practices of inheritance and family law. Women’s rights groups should be supported in their efforts to develop cultural norms surrounding gender equality in land rights. Country efforts could consider working with religious groups, NGOs, local government or encouraging public awareness campaigns to influence discriminatory practices.
- Due to the fact that most often redistribution, or reorganisation of property rights and titling does constitute a ‘zero-sum game’, at all levels reforms must be based on deliberation and inputs from those that they are intended to affect. Support for initiatives such as the establishment of coalitions between urban and rural poor around common concerns.
- Distill lessons on property rights and titling in disaster management. Support should be provided to codification of experiences from post-tsunami recovery as these may be particularly informative.

Implementation

Finding entry points at national level

National consultation process

National and sub-national initiatives at a country level should be determined by a national consultation on legal empowerment of the poor. Such a national consultation process should bring together government, civil society, the poor and the private sector and should be informed by research papers commissioned on each the four pillars of legal empowerment in order to identify the current situation and key legal empowerment issues in a given country.

The reports of the Commission on Legal Empowerment of the Poor can serve as useful inputs into regional consultations and should be translated into local languages.

Thailand is in the process of planning for such a consultation and the Vice-Minister of Justice in Vietnam made a commitment at the regional dialogue to hold a national consultation in his country.

A national stakeholder mechanism should be established as part of the consultation process (e.g. a national forum on legal empowerment of the poor). Such a national multi-stakeholder forum should be inclusive (involving government, CSOs, CBOs and directly affected groups, private sector and academia). This will be crucial for both consensus-building and buy-in by policymakers at national level on sensitive and complex issues where implementation has to take place. It is also crucial for advocacy pressure by non-state actors. Such a mechanism should have two-way linkages to the regional legal empowerment partnership (see below).

The national consultation process can be expected to culminate in a critical mass of support to LEP, based on a social consensus.

Action plans

A key output of the national consultation process should be an action plan. This would include the development of the goal, objectives, strategies, and specific interventions that contribute to the legal empowerment objective. Critical issues include sequencing and timing, resource constraints, establishing a monitoring and evaluation framework, and ensuring a balance between process and products required to maintain momentum.

Subsequent activities

Pilot activities: These should be built around the idea of ‘quick wins’ in areas where these are feasible. In this way one can build the credibility of the legal empowerment agenda and demonstrate initial success.

Scaling-up: Expanding the range of activities and taking on more complicated challenges. This stage can be supported by raising awareness of past successes, additional sensitization, and strengthening the consultation process.

When you do the analysis - be holistic, when you determine the results - be holistic, when you implement - be practical and pragmatic.

- Naresb Singh

Institutionalizing change and the change process: Tackling some of the fundamental reforms by building on experiences in the pilot phase and scaling-up phase to reform the organizations and rules that shape the institutional context.¹⁸

Use ongoing access to justice initiatives

There are several ongoing access to justice projects and programmes in the region. An obvious entry point would therefore be to work through existing access to justice initiatives and expand these to include one or more pillars of legal empowerment as appropriate within a particular country context.

A model for access to justice programming has been developed as well as a [step by step guide](#) on how to assess a problem from a rights based approach, which has a people centered focus and gives special attention to those who suffer discrimination. Such assessments could provide a starting point for legal empowerment initiatives which truly take the needs of poor people as a starting point for reforms. Indonesia has conducted an access to justice assessment (see below), which has resulted in the development of a national access to justice strategy. Lessons from the Indonesia experience could inform similar initiatives elsewhere.

Indonesia's access to justice assessment and national access to justice strategy

Indonesia's National Access to Justice Strategy originates out of an 18 month long assessment of access to justice in 5 provinces of middle and Eastern Indonesia. The assessment involved more than 4,500 members of poor communities.

While most justice initiatives take a narrow view of justice, by focusing only on national level justice institutions, this assessment approached justice from the point of view of poor and disadvantaged people, whose justice needs are in fact very broad, and this is why the Legal Empowerment and Assistance for the Disadvantaged (LEAD) Project and the National Access to Justice Strategy were developed to address not only justice sector reform, but also justice issues across a number of sectors.

The National Strategy was developed to address the real needs of poor communities in the less developed regions of Indonesia. The process of developing the Strategy was opened to full civil society participation from the first day. The whole process was steered by a Working Group of 12 experts, more or less equally balanced between government, civil society, academia, men and women. The Strategy is structured by 8 core themes: Legal and justice reform; legal aid, local governance; land and natural resources; women and law; labour; child rights; poor and marginalised groups. The choice of these core themes has derived from the key justice related issues affecting disadvantaged communities that were identified during the assessment. Consultations were then held, which covered all 33 provinces in Indonesia. It was important to include regional perspectives because Indonesia is large and highly diverse, and there are substantial regional differences in poverty levels.¹⁹

For more information go to: <http://lead-project.net/about-lead> and http://www.undp.or.id/pubs/docs/Justice%20for%20All_.pdf

¹⁸ Commission on Legal Empowerment for the Poor *Making the Law Work for Everyone: Volume II*, 2008.

¹⁹ Diani Sadiawati, Presentation at the regional dialogue on legal empowerment of the poor, 3-5 March 2009, Bangkok.

Support from the regional level

One of the main ideas of the (CLEP) report was that if the recommendations were going to go anywhere, action would have to be taken at the regional level. One could not drive this from New York, and one could not drive it solely at the country level either.

- Olav Kjørven

The role of UNDP in this context is to provide support and facilitate dissemination of best practices. The regional partnership should be a real, rather than a virtual entity. It must have credible authority and capacity to act.

- Kamal Malhotra

A regional partnership

There are varying degrees of sensitivity towards legal empowerment of the poor in different countries across the region. Therefore it may not always be possible to have dialogues at a national level on sensitive subjects. The regional level is more appropriate for such issues.

One of the anticipated benefits of a regional initiative is peer pressure and advocacy from an external source that can stimulate discussions at national level and help to change entrenched ways of thinking around issues such as the situation of migrants, land rights of indigenous peoples, identity and informality.

Such a regional approach can help in building political will in member countries, it can also bring together and support reform minded government officials from the region.

A regional approach means that sensitive issues could be tackled jointly – issues that otherwise may not be addressed at a national level and the impact of which is felt across the region, not just in one country. A regional partnership can provide a more nuanced response in ensuring that the issue remains on the agenda and provides a forum in which sensitive issues can be addressed in an environment acceptable and accessible to relevant stakeholders.

Given that Asia is so vast and varied, it may be necessary that the partnership has two or three sub-regional sub-groups, which then form part of an overall regional partnership.

The regional partnership must respond to the demand of countries and not be supply driven.

The regional partnership could take the following forms:

A virtual community, with a moderator

A consortium of civil society organizations with a secretariat

A policy ‘think-tank’

A mechanism established by SAARC and ASEAN focused on LEP, or linked to the ASEAN human rights mechanism

Activities of a regional partnership

Development and distilling of knowledge

There is rich experience on legal empowerment of the poor across the region, which needs to be documented and shared.

In areas that are poorly documented it will be necessary to generate new research.

There are varying degrees of sensitivity in different countries on legal empowerment issues. It is not always possible to start the dialogue at the national level. Sometimes you need peer pressure to stimulate the discussion at the national level.

- Gwi-Yeop Son

Based on the discussions during the regional dialogue, the regional partnership could facilitate the development of the following types of knowledge products:

- Collation of best practices	- Commissioned research papers
- Codification of lessons learned	- Development/adaptation of assessment tools
- Documentation of LEP experiences/initiatives in countries	- Development/adaptation of indicators
- Guidance documents	

Participants in the regional dialogue proposed the following themes, which the regional partnership could initiate and/or facilitate research or collation of experiences:

- Scale of the informal sector	- Cross border migration issues
- Access to justice assessments	- Land rights of indigenous peoples
- Legal rights for those in informal sector	- Models of access to credit and financial services
- Land laws	- Bi-lateral/regional cooperation on migrant workers
- Knowledge bank of technical solutions (e.g. taxation or credit or labor standards)	- Evidence/assessments/indicators – what does it make sense to use/develop for legal empowerment
- Incentives systems	- Scaling up of local level initiatives
- Costs and benefits of legal empowerment through decent work.	- Alternative and creative mechanisms on supporting community based activities

To kick-start the regional partnership, the Regional Centre in Bangkok will set up an on-line legal empowerment knowledge bank, which will feature relevant documents on legal empowerment, information on existing projects, tools, and all the documents from the regional dialogue. This will be a publicly accessible web site, open to anybody interested in legal empowerment of the poor.

The knowledge bank will be maintained and facilitated by the LEP partnership facilitator/moderator in RCB and a monthly email digest of upcoming events, new knowledge products, legal empowerment news from countries in the region, and partnership activities will be sent to all those who have opted in to be included in the list.

Email based discussions will also be facilitated by the LEP partnership facilitator/moderator and guest moderators to enrich and continue the dialogue on LEP.

A quick on-line survey will be conducted with dialogue participants (and possibly others) to determine what are the most popular topics for email discussions. A similar survey will be conducted to determine the topics of the research/knowledge products, discussed above.

Other potential roles for the regional partnership, proposed during the regional dialogue:

- Mobilization of resources
- Host policy maker dialogues at regional level
- Bring together a variety of actors from the region working on one issue and use policy research papers as inputs into broad-based consultations
- Establish regional working group on legal empowerment
- Provision of technical assistance to develop indicators at national level
- Take a lead role in liaising with relevant international organisations to incorporate legal empowerment to pre-existing strategic frameworks (poverty reduction strategies, better work agenda).
- Act as a forum to resolve issues with regard to legal regulations which create disharmony across borders. A regional partnership facility could examine how to build systems and regulations that are compatible, or not directly antagonistic to neighbouring countries.
- Assist with establishing a bilateral 'dispute resolution mechanism' with regard to sensitive issues of migrant workers in the region.
- Maintain a strong voice for the illegality of forced evictions and provide network support to civil society organisations that work to prevent them.
- Piloting of innovative initiatives through a grants facility

Before you define something as success or failure, you have to define what its measures of success are.

- Bibek Debroy

Importance of evidence for legal empowerment of the poor

Legal empowerment of the poor will require political support, adequate resources, favorable policies, pro-poor laws and popular support. To garner such support, powerful evidence and persuasive arguments will be necessary to make the case for support to legal empowerment of the poor. There is a need to move beyond anecdotal ‘best practices’ of legal empowerment initiatives. Empirical research, comparative analysis of before and after interventions and effective impact evaluations are necessary.

Advocacy is crucial to win support for legal empowerment of the poor. At the core of advocacy is objective evidence. Decision-makers are more likely to give their endorsement and allocate resources if convinced that legal empowerment will make a difference and that the policies and programs advocated deserve high priority, make economic sense and will benefit many people.

While policy reform is not only about evidence - sometimes it’s about ideology, sometimes it’s about interests, sometimes it’s about time and it is always about politics - it is nevertheless important and necessary because it provides reasons that decision makers need to justify support of legal empowerment of the poor.

How should we advocate for important issues? Should we shake our fists? No, we must present evidence”.

- Noha El-Mikbany

Impact evaluation of *Mediation and Community Legal Empowerment*

The Government of Indonesia and the World Bank are planning to rigorously monitor and evaluate the Mediation and Community Legal Empowerment (MCLE) component of the Support for Poor and Disadvantaged Areas (SPADA) project. SPADA is one of the largest World Bank projects in Indonesia.

Beginning to build a more rigorous empirical basis for analyzing and assessing the impact of ongoing justice sector reform programs is crucial. While there is broad agreement on the importance of building—and enhancing access to—“rule of law” systems in developing countries, we have a much poorer understanding of how such goals should be realized and efforts to do either of these things have a fairly unhappy history.

One of the reasons for these disappointments is arguably that reforms have lacked a sound empirical basis and that there is limited evidence of what does and does not work in a particular context. This dearth of systematic research remains despite the fact that it is 40 years since the law and development movement and almost 20 years since the revival of interest in justice sector reform in the area. Indeed, there continues to be little consensus on what a successful project entails and there are few examples where major impacts have been reported, despite the fact that the Bank and other donors continue to commit hundreds of millions of dollars to justice sector reform initiatives.²⁰

²⁰ World Bank, *Impact Evaluation of the Mediation and Community Legal Empowerment component of the Support for Poor and Disadvantaged Areas project, Indonesia*, Concept Note, 1 October 2008

A legal empowerment of the poor index?

Some discussions have taken place about the utility of developing a legal empowerment of the poor index. Such an index may be a useful tool for agenda setting and advocacy for reform at national level through its ‘naming and shaming’ function.

If such an index is developed, it will be necessary to go beyond cross-country ranking and capture the sub-national dynamics by ranking *within* countries. Comparison between countries is only helpful at the level of agenda setting and kicking off discussions for change. It is not helpful for prioritizing exact policy options for change within public services. There is no global index which helps a country look at national/sub-national dynamics. In-country comparisons among countries own regions/provinces are far more useful. Creating competition among public officials through in-country rankings on the other hand can be an effective way to create a sense of urgency to act.

The Philippines National Statistical Coordination Board has developed a set of performance indicators for local governments and periodically publishes the data ranking provinces and cities. This has attracted considerable public interest and thus motivates provincial governors and mayors of cities to focus on areas where their performance lags behind that of others. If data pertaining to LEP were incorporated into national statistical systems, it could have a variety of uses, including rewarding performance of sub-national governments with incentive allocations from central government revenues.

Indicators

The world is full of indicators and one will have to make decisions on what indicators to select. If planning on using pre-existing indicators, it is important to be aware that indicators have assumptions behind them. It is critical to question what these assumptions are and determine whether one is in agreement with these assumptions. Assumptions are made about power, values, social dimensions and the role and responsibilities of the state. Assumptions are also made about stakeholders – policy makers, politicians, civil servants, private sector and citizens.

A key question is whether the indicators developed are really helping national counterparts. Many indicators lack action-orientation and don’t help counterparts in figuring out what to do next.

Importance of national ownership

National ownership of assessments and indicators means that they are 'owned' by national stakeholders. The assessment cannot be a donor driven project but must be one that is initiated, implemented and sustained by national actors. National stakeholders need to be invested in the assessment, believe in its legitimacy and hold it to be relevant. No single actor can be said to represent 'the nation' which means that national ownership of governance assessments are equally owned by state and non-state actors including NGOs and CBOs and should progressively involve and have the support of an increasing and 'representative' number of national actors. For UNDP, important additional national actors, that need to be included are those that represent marginalised groups.

While working with national statistical bodies is important, as they are the ones who have the budgets to carry on with collecting data and thus lend themselves to sustainability, it is also crucial to work with civil society and communities. Assumptions in terms of who to involve in developing indicators and assessments will later affect the civil society you will want to reach during advocacy and implementation stages. The best way to encourage users to utilize the data is to have them involved in the methodology from the first day.

There are many producers of indicators and very few users. UNDP and partners should not be developing new reports, or setting up new data collection processes. First it is important to check what already exists and what is available. Asking the question 'who is doing what?' has the added advantage of kick-starting the process of sharing responsibilities across various organizations and institutions.

Indicators need to be:

- Gender sensitive
- History sensitive (archaeology of systems)
- Tradition sensitive (individual vs. community)
- Livelihood sensitive (inclusive & sustainable growth)
- Process oriented (as opposed to formal end-point institutions)
- Empower society based movements
- Empower champions in the state
- Link process to outcome (ends vs. means)
- Include people in development of measurement instruments & the use of findings



Annexes

Agenda

List of participants

Agenda

Objectives of regional dialogue:

- To provide a high level platform to discuss the complex issues raised by the Report of the Commission of the Legal Empowerment of the Poor (CLEP).
- To deepen the understanding of country offices and national partners of the issues raised by CLEP.
- To identify priorities and proposals for countries and develop a framework for implementation.
- To explore the feasibility and mandate of a regional partnership on legal empowerment.

Day 1, Tuesday, March 3rd 2009

- 9:00 – 9:50 *Welcome, Introductions and Orientation*
- Formal opening by Mr. Nicholas Rosellini (Deputy Assistant Administrator and Deputy Regional Director for Asia and the Pacific)
 - Participants' introductions
 - Orientation to the dialogue
- 9:50 – 10:20 *UNDP policy position on legal empowerment of the poor*
- Presentation by Mr. Olav Kjørven (Assistant Secretary General and Director Bureau Development Policy)
 - Plenary discussion
- 10:20 – 10:50 *Experiences from the Commission on Legal Empowerment of the Poor*
- Presentation by Mr. Naresh Singh (Former Executive Director of Commission on Legal Empowerment of the Poor)
 - Plenary discussion
- 10:50 – 11:10 *Coffee break*
- 11:10 – 11:40 *The Legal Empowerment in Asia Partnership*
- Presentations by Mr. Charnchao Chaiyanukij (Deputy Permanent Secretary, Ministry of Justice, Thailand) and Mr. Kamal Malhotra (Resident Representative, UNDP Malaysia)
 - Plenary discussion
- 11:40 – 12:45 *Panel discussion on legal empowerment and the financial crisis and its impact on the poor*
- Presentations by Mr. Hamid Rashid (Senior Policy Advisor and Coordinator of the Legal Empowerment for the Poor Programme, UNDP), Ms. Suwanne Khamman (Deputy Secretary General, National Economic and Social Development Board Thailand) and Mr. John Samuel (International Director for Action Aid)
 - Plenary discussion
- 12:45 – 14:15 *Lunch break*

14:15 – 16:10 ***Session 1: Access to justice and the rule of law as the enabling framework for legal empowerment***

Session Objectives:

- *To frame access to justice and the rule of law as enabling framework for legal empowerment*
- *To provide an overview of the key issues and challenges around access to justice and the rule of law vis-à-vis legal empowerment*
- *To ground these issues in a country context with insights from experienced practitioners*
- *To share examples of successful responses and best practice*
- *To identify potential responses and priorities for action at national and regional levels and the role of external support*

Session 1:

- Chaired by Mr. Sanaka Samarasinha (Deputy Resident Representative, UNDP, Myanmar)
- Presentations by Mr. Stefan Priesner (Country Director, UNDP Bangladesh), Ms. Diani Sadiawati (Director of Law and Human Rights, National Development Planning Agency in Indonesia), Mr. Dan Banik (University of Oslo - Center for Development and the Environment)
- Response by Mr. Bibek Debroy (International Management Institute, Centre for Policy Research, India)
- Plenary discussion
- Response: Mr. Matt Stephens (Regional Justice for the Poor Program, World Bank)

16:10 – 16:30 *Coffee Break*

16:30 – 17:45 ***Small group discussions***

- Discussions at tables
- Plenary reports on table discussion points
- Summary of key points by Mr. Sanaka Samarasinha (UNDP Myanmar, Session Chair)

17:45 – 18:00 ***Wrap-up of the day***

- Informal evaluations

18:00 – 20:00 *Welcome reception*

Day 2, Wednesday, March 4th 2009

9:00 – 9:15 ***Morning Check-in,***

- Review of feedback from previous day and adjustments to agenda

9:15 – 11:00 ***Session 2: Property, labour and business as crucial empowerment domains upon which the livelihoods of the poor depend***

Session Objectives:

- *To reinforce the importance of approaching legal empowerment from a holistic perspective.*
- *To provide an overview of the key issues around business, property and labour vis-à-vis legal empowerment*
- *To ground these issues in a country context with insights from experienced practitioners*
- *To share examples of successful responses and best practice*

-
- *To identify potential responses and priorities for action at national and regional levels and the role of external support*
- Session 1:**
- Chaired by Professor KP Kannan (Centre for Development Studies, Kerala)
 - Presentations by Ms. Shalini Trivedi (SEWA), Mr. Tuomo Poutiainen (Better Factories), Mr. Batdelger Luuzan (UNDP RCB), Mr. Asif Chida (UNDP Fiji), Mr. Sultan Tiwana (SMEDA), Ms. Simrin C. Singh (ILO)
 - Plenary discussion
- 11:00 -11:20 *Coffee Break*
- 11:20 – 12:30 ***Sub regional group discussions***
- Sub regional table discussions on priorities for action in the area of labour and business at the national and regional levels
 - Table reports on discussion points
 - Summary of key points by Professor KP Kannan (Session Chair)
- 12:30-13:00 ***The importance of partnership between government and civil society for legal empowerment***
- Presentation by Ms. Erna Witoelar (Former Commissioner, Commission for Legal Empowerment of the Poor)
 - Plenary discussion
- 13:00 – 14:30 *Lunch*
- 14:30 – 16:00 ***Session 2 continued - focused on property rights***
- Chaired by Ms. Erica Harper (IDLO, Geneva)
 - Presentations by Ms. Madhu Kishwar (Editor Manushi, India) and Mr. Denison Jaysasooria (University Kebangsaan Malaysia)
 - Plenary discussion
 - Presentations by Ms. Chandra Roy (UNDP RCB) and Ms. Erica Harper (IDLO, Geneva)
- 16:00 – 16:20 *Coffee Break*
- 16:20 – 16:40 • Plenary Discussion
- 16:40 – 17:20 ***Sub regional group discussions***
- Sub regional table discussions on priorities for action in the area of property rights at the national and regional levels
 - Summary of key points by Sudarshan (UNDP RCB)
- 17:20 – 17:30 ***Wrap-up of the day***
- Informal evaluations

Day 3, Thursday, March 5th 2009

- 9:00 – 9:30 ***Morning Check-in,***
- Review of feedback from previous day and adjustments to agenda
 - Plenary Discussion
- 9:30 – 10:40 ***Session 3: continued***
- Sub regional discussions on priorities emerging from previous day's work
 - Table reports on top priorities
- 10:40 – 11:00 *Coffee Break*
- 11:00 – 12:15 ***Statistics, assessments and evidence of impact***
- Presentation by Ms. Noha El-Mikawy (UNDP Bureau for Development Policy, Oslo)
 - Plenary discussion
- 12:15 – 13:45 *Lunch*
- 13:45 – 15:40 ***National priorities and regional opportunities***
- Plenary discussion
 - Discussion in national groupings on national priorities and next steps at a national level, how could a regional partnership support national priorities and possible contributions to a regional partnerships
 - National reports on discussions
- 15:40 – 16:00 *Break*
- 16:00 – 16:45 ***UNDP Senior Management Panel***
- Chaired by Mr. Olav Kjørven (Assistant Secretary General and Director Bureau Development Policy)
 - Comments from Ms. Gwi-Yeop Son (Resident Representative, UNDP Thailand), Ms. Deidre Boyd (Country Director, UNDP India), Mr. Stefan Priesner (Country Director, UNDP Bangladesh), Mr. Renaud Meyer (Country Director, UNDP Philippines) and Mr. Jo Scheuer (Country Director, UNDP Cambodia)
 - Plenary Discussion
- 16:45 – 17:30 ***Official Closing***
- Closing remarks from Mr. Nicholas Rossellini (Deputy Assistant Administrator and Deputy Regional Director for Asia and the Pacific) and Mr. Olav Kjørven (Assistant Secretary General and Director Bureau Development Policy)
 - Formal Evaluations

List of Participants

1	Abigail Schwartz	Open Society Institute, New York
2	Allison Moore	UNDP Indonesia
3	Aparna Basnyat	UNDP RCB
4	Ariyo Bimmo	Bappenas, Indonesia
5	Asif Chida	UNDP Fiji
6	Batdelgar Luuzan	UNDP RCB
7	Bhupinder Prasad	Department of Justice, Government of India
8	Bibek Debroy	International Management Institute, Centre for Policy Research, India
9	Carla Munsayac-Villarta	Panel for Negotiations with the CPP/NPA/NDF, Philippines
10	Chandra Roy	UNDP RCB
11	Charnchao Chaiyanukij	Ministry of Justice, Thailand
12	Cherie Hart	UNDP RCB
13	Christophe Bahuet	UNDP Vietnam
14	Dan Banik	University of Oslo - Center for Development and the Environment
15	Dang Hoang Oanh	Ministry of Justice Viet Nam
16	Davone Vangvichit	Lao PDR National Assembly
17	Deirdre Boyd	UNDP India
18	Denison Jayasooria	University Kebangsaan Malaysia
19	Diani Sadiawati	BAPPENAS, Indonesia
20	Duong Thien Huong	Ministry of Justice, Viet Nam
21	Emilia Mugnai	UNDP RCB
22	Emmanuel Buendia	UNDP Philippines
23	Erica Harper	IDLO, Geneva
24	Erna Witoelar	Indonesia
25	Ewa Wojkowska	UNDP RCB
26	Felomina Hular Duka (Femie)	DAMPA, Philippines
27	G. Rajasekaran	Malaysian Trades Union Congress
28	Gao Zhen	Legal Aid Dept, Ministry of Justice, China
29	Gemma Archer	UNDP PDR Lao
30	Gwi-Yeop Son	UNDP Thailand
31	Hakan Bjorkman	UNDP Indonesia
32	Hamid Rashid	UNDP Bureau for Development Policy, New York
33	Iem Kounthdy	Ministry of Labor, Cambodia
34	James Chacko	UNDP Malaysia
35	Jo Scheuer	UNDP Cambodia
36	Johanna Cunningham	UNDP RCB
37	K.P. Kannan	Centre for Development Studies, Thiruvananthapuram, Kerala, India
38	Kamal Malhotra	UNDP Malaysia
39	Lara Johnson	Open Society Institute, Chiang Mai
40	Matt Stephens	World Bank, Philippines
41	John Samuel	Action Aid, Bangkok
42	Madhu Kishwar	Manushi, India
43	Naresh Singh	Canadian International Development Agency

44	Nguyen Duc Chinh	Ministry of Justice Viet Nam
45	Nguyen Vinh Oanh	Vietnam Lawyers' Association.
46	Nicholas Booth	UNDP Viet Nam
47	Nicholas Rosellini	UNDP
48	Noha El-mikawy	UNDP Bureau for Development Policy, Oslo
49	Olav Kjørven	UNDP Bureau for Development Policy, New York
50	Patrick Keulers	UNDP RCB
51	Patrick van Weerelt	UNDP New York
52	Paula Beltgens	Facilitator
53	Pauline Tamesis	UNDP RCB
54	Phearum Sia	Housing Rights Task Force, Cambodia
55	Prasom Fangtong	Department of International Organisations, Ministry of Foreign Affairs
56	Ramesh Abhishek	Department of Justice, Government of India
57	Raviprapa Srisartsanarat	USAID
58	Renaud Meyer	UNDP Philippines
59	Samuel Cantell	European Commission, Bangkok
60	Sanaka Samarasinha	UNDP Myanmar
61	Sasitorn Wongweerachotkit	Thailand International Development Cooperation Agency
62	Sengphouxay Inthavikham	Community Environmental Promotion and Cultural Association, PDR Lao
63	Shalini Trivedi	SEWA, India
64	Simrin Singh	ILO Subregional Office for East Asia, Bangkok
65	Somchai Yensabai	UNDP Thailand
66	Sonam Yangchen-Rana	UNDP PDR Lao
67	Stefan Priesner	UNDP Bangladesh
68	Sudarshan	UNDP RCB
69	Sultan Tiwana	Small and Medium Enterprise Development Authority, Pakistan
70	Suwanne Khamman	National Economic and Social Development Board, Thailand
71	Ta Thi Minh Ly	Ministry of Justice Vietnam
72	Thomas Crick	UNDP Indonesia
73	Tuomo Poutiainen	ILO Better Factories Cambodia Programme
74	Yuxue Xue	UNDP Thailand
75	Zhang Wenjuan	Legal Aid Working Station for Migrant Workers, China
76	Zhong RuoJing	Legal Aid Department, Ministry of Justice, China