



Commission on

Legal Empowerment

of the Poor

Making the Law Work For Everyone:
Moving Toward Implementation

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Commission on Legal empowerment of the Poor



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Towards a Plan of Action

- With a growing international movement of membership based organisations of the working poor in the informal economy, there is a growing need to increase documentation, dissemination and integration of these initiatives
- The working poor in the informal sector have legal needs and demands that must be identified and addressed
- By focusing on the concrete legal needs, constraints and demands of specific categories of the working poor, legal empowerment can obtain critical information that will allow for a targeted approach when determining appropriate legal reform and related action and inputs
- In order to convene these dialogues between the working poor and relevant actors and stakeholders, this proposal calls for the establishment of dialogue that will lead to a program of action

Goal: Sustainable Livelihoods

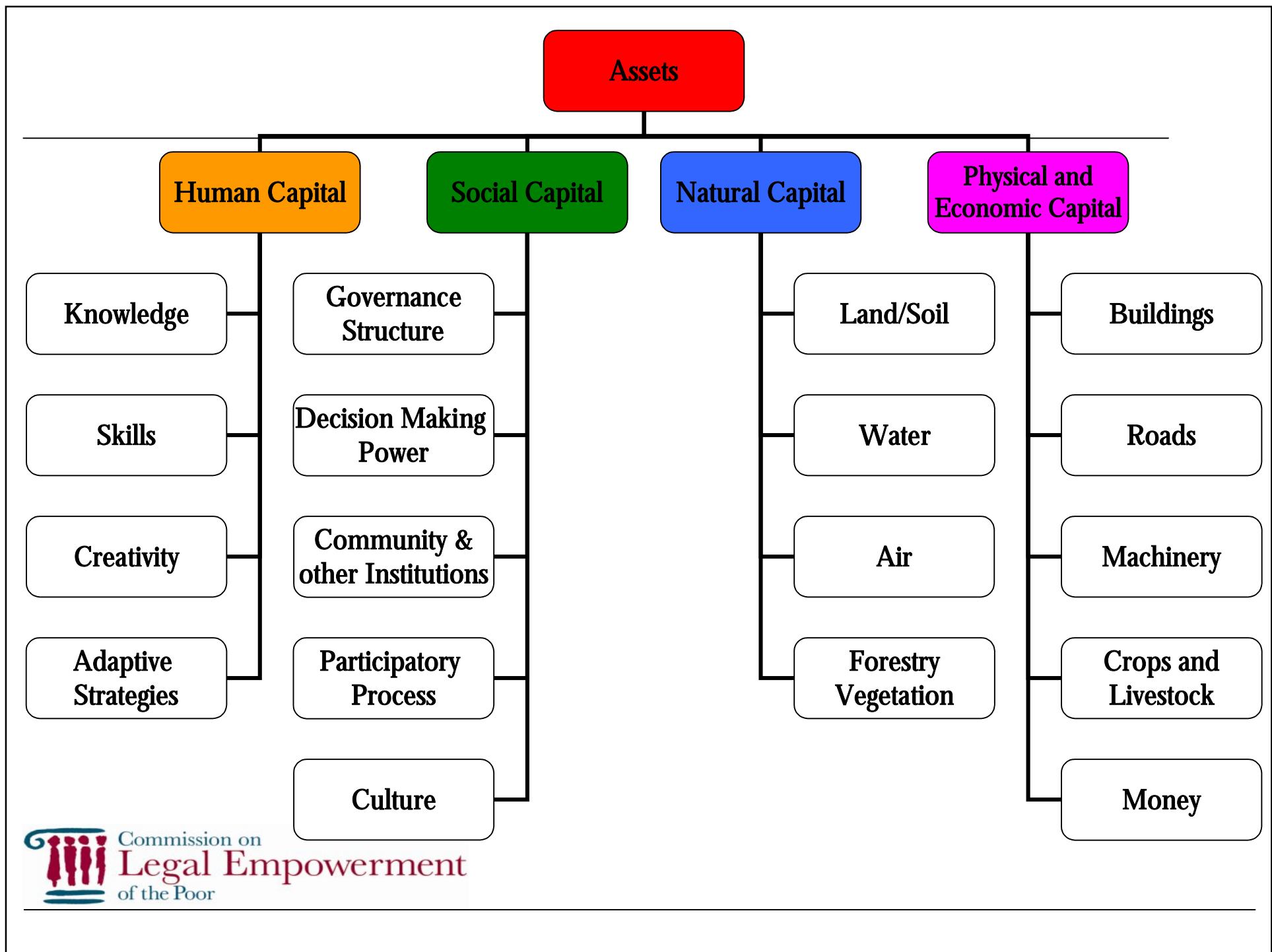
- LIVELIHOODS of people are based on assets (such as land), activities (business or labor) and entitlements (protections, freedoms, opportunities)
- SUSTAINABILITY: economic efficiency, ecological integrity, social equity, resilience (capacity to cope with and recover from shocks and stresses)
- VULNERABILITY is the inability to cope with and recover from shocks and stresses to the livelihood system
- EMPOWERMENT is the process through which people gain greater control over their lives and livelihoods
- LEGAL EMPOWERMENT is the process through which threats are reduced, protection is increased and opportunities are enhanced by use of the law

Priority Groups of the Working Poor in Urban Areas

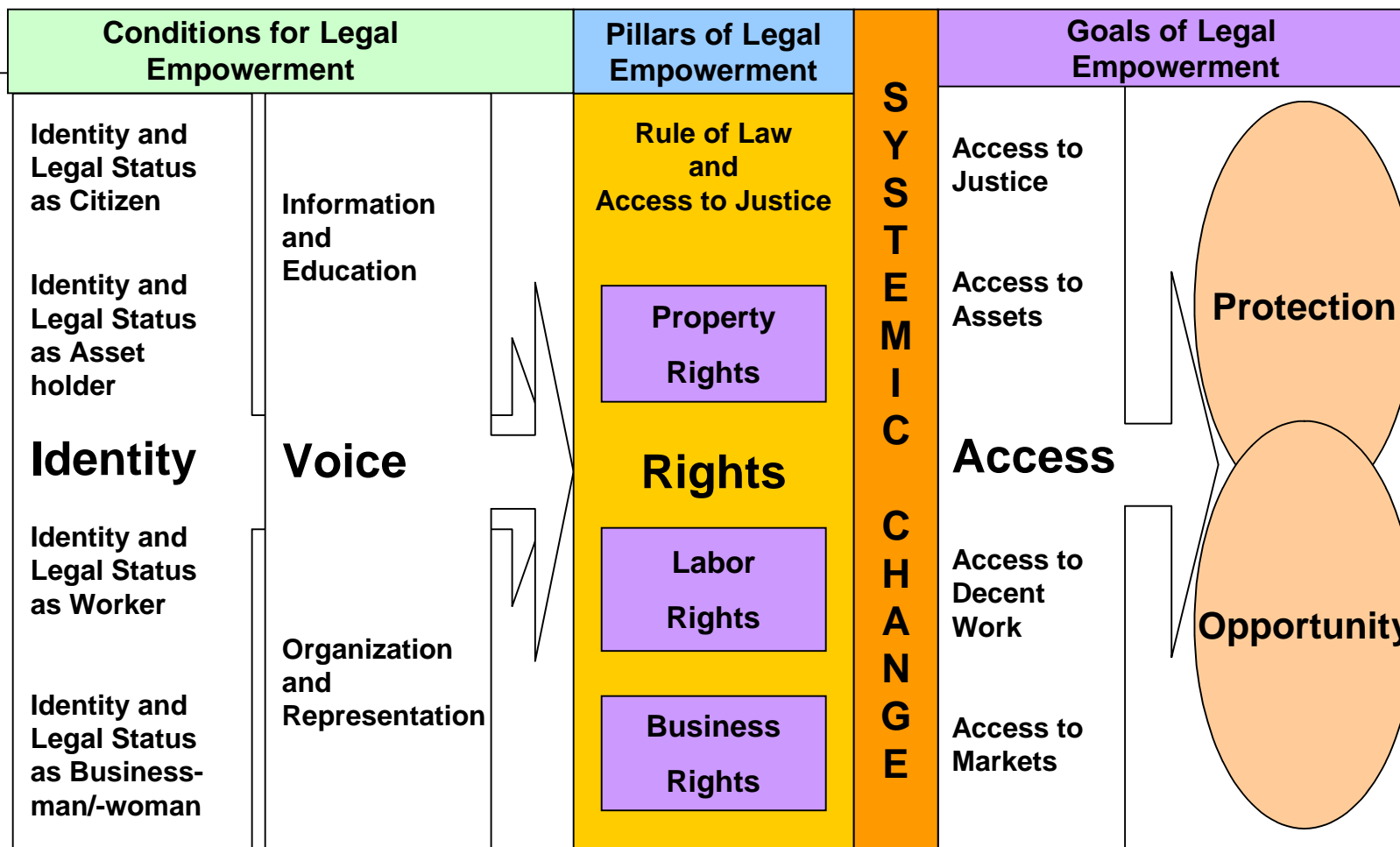
Who \ What	Legally Empowering Waste Pickers	Legally Empowering Street Vendors	Legally Empowering Domestic Workers	Legally Empowering House Based Producers
1. Membership Based Organisations of the Working Poor				
(a) Members & Leaders				
(b) Organizers				
2. Legal Experts				
(a) Justices & Judges				
(b) Activist Lawyers				
(c) Law Students				
3. Support organisations				
(a) NGOs				
(b) Donors				
(c) Private Sector				

Priority Groups of the Working Poor in Rural Areas

Who \ What	Legally Empowering Farmers	Legally Empowering Fishermen	Legally Empowering Farm Laborers	Legally Empowering Non farm laborers, (e.g. mechanics, artisans)
1. Membership Based Organisations of the Working Poor				
(a) Members & Leaders				
(b) Organizers				
2. Legal Experts				
(a) Justices & Judges				
(b) Activist Lawyers				
(c) Law Students				
3. Support organisations				
(a) NGOs				
(b) Donors				
(c) Private Sector				



The Concept of Legal Empowerment



Understanding the Political Architecture of a Nation

- Concentration of power at the centre vs. power dispersion and fragmentation
- Constitutional aspects of governance, i.e. the rules of the game and who makes the rules
- Political economic aspects of governance and distribution, i.e. who gets what and how.
- Mapping the power structure and identifying the key actors involved
- Addressing the drivers of change [DFID] and “binding constraints” (Roderick)
- Other political/power analytical tools

The Role of Key Actors

Broad political coalitions for pro-poor change that involve leaders from across society are needed to galvanise and sustain reforms and prevent reforms from being diverted, diluted, delayed, or reversed.

The State

- Primary public duty bearer
- Responsible to provide the enabling environment for all to prosper
 - » An enabling environment includes appropriate institutional frameworks that are equitable and accessible to all
 - » Also includes appropriate freedoms [Sen]
- For legal empowerment, the state has to provide the political and policy space for people's participation and has to agree to cede some power to organized community groups

The Role of Key Actors (contd.)

An approach worthy of the 21st century must recognize the immense contributions to change non state actors and civil society can bring.

Non State Actors – Private Businesses, NGOs, Academia, Grassroots, and Community Based Organisations

- Engage as participants in the decision making process
- Build representation for the poor with political institutions at global, national and local levels
- Support the poor for mobilisation and articulation
- Mobilise opinion for reform
- Audit the state's performance on all levels
- Faith-based organisations can play a unique and vital part in translating the moral imperatives of Legal Empowerment into concrete action.
- Set new international norms

The Role of Multilateral and Regional Organisations

Multilateral Organisations:

UNDP, World Bank, ILO, and UNHABITAT

Regional Political Organisations:

Organisation of American States (OAS), African Union (AU), and Association of South East Asian Nations (ASEAN)

Regional Development Banks:

African Development Bank, Asian Development Bank, European Bank for Reconstruction and Development, Inter-American Development Bank Group

Actions At Different Levels

ACTION TYPE/ LEVELS	POLITICAL	POLICY	PROGRAM	PROJECT
GLOBAL	-Actors -Actions -Outputs			
REGIONAL				
NATIONAL				
LOCAL				

Some Legal Empowerment Issues in Indonesia*

Access to Justice and the Rule of Law

- A lack of understanding of the formal institutions and mistrust in the government's legal mechanisms
- Alternative dispute resolution mechanisms (ADR) can be inefficient as they typically reflect social biases and seldom deliver rulings that are equitable

Property Rights

- Growing presence of foreign corporations seeking to exploit natural resources has resulted in increased conflict between companies and traditional farming communities.

Labour and Business Rights

- Very difficult for women who work in small enterprises to obtain credit or loans from local banks.

Some Legal Empowerment Issues in the Philippines*

Access to Justice and the Rule of Law

- ADR mechanisms can be administered by biased individuals who lack knowledge of local issues or are not properly trained

Property Rights

- Property rights in rural areas are dominated by large land owners which makes it difficult for the rural poor to gain access to land titles.

Labour Rights and Business Rights

- Biased enforcement of laws against the use of public space to sell goods without proper licenses.
- Abuse of domestic women workers and other categories of informal labour. Large discrepancies in the educational opportunities given to women were also noted.

*Extracted from the National Consultation reports in Asia

Recommendations from National Consultations in Indonesia and the Philippines

- Indonesia cited the necessity to develop responsive legislation that takes into account impediments to justice and seeks to implement constitutional provisions that will work to benefit the poor when enforced properly.
- Indonesia has 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.
- The Philippines have suggested that ADR mechanisms may still have an important role to play, provided that they are administered by fair and appropriately trained individuals.
- The Philippines have recommended reforming the business registration process and the participation of private banks in providing loans to help micro enterprises in covering business registration costs.
- The Philippines cited that in order to provide women with the resources to improve their businesses, more initiatives geared toward the improvement of labour and entrepreneurial rights among women must be developed.

CONCLUSION

- Maintain an essential integrity of the LEP agenda in an analysis and expected results, but choose pragmatic entry points including building on appropriate on-going initiatives
- Establish clear expected results at different levels of the results chain through a multi-stakeholder process
- Use a matrix of politics, policy, program, project against action levels: global, regional, national, local to understand roles of various actors and inter-linkages
- Membership based organizations are likely to be the best entry points to initiate action

CONCLUSION

- Relationship between legal empowerment and legal reform
- Relationship between LEP, Human Rights and Human Rights Based Approach to Development
- Relationship between LEP and Human Development:
 - LEP is essentially about increasing civil, political, economic, social and cultural freedoms through the law