

THE LEGAL EMPOWERMENT APPROACH TO
INTERNATIONAL DEVELOPMENT

WHITE PAPER

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EXECUTIVE SUMMARY

Legal empowerment lies at the nexus of law and development. It uses law as a tool for change - to empower citizens and communities as agents in their own development, demand accountability of the state, and foster the rule of law and peaceful dispute resolution. Legal empowerment offers practical legal solutions to everyday problems of the poor by using community-driven models such as paralegals and other non-lawyer resources and by adapting and responding to local context, including informal systems of justice.

Legal empowerment contributes to important development outcomes, including the UN Millennium Development Goals, by unlocking human and market potential. Projects in Sierra Leone, the Philippines, and Ecuador are just some of the examples discussed in this white paper that illustrate how legal empowerment advances both justice and development. In Sierra Leone community-based paralegals avert conflict, resolve disputes and translate local needs into legal action. In the Philippines, local lawyers and trained community volunteers ensure land reform benefits the poor. In Ecuador, community paralegals and lawyers helped increase land tenure security and control over natural resources for vulnerable, rural Afro-Ecuadorian communities.

The purpose of this white paper is to provide a starting framework for thinking about legal empowerment approaches to development. It is part of the broader, ongoing efforts of Haki to foster dialogue on the need to use law and policy as tools to expand access to justice and contribute to poverty reduction. Haki has developed this paper as part of its evolving work across a global network of local civil society organizations, lawyers and community activists practicing legal empowerment. A core assumption of this paper is that legal empowerment is a young but promising concept that will benefit from greater programmatic and analytic rigor and that over time it has the potential to play a fundamental role in strengthening development strategies. We appreciate your comments and contributions to this growing field.

WHAT IS LEGAL EMPOWERMENT?

Haki defines legal empowerment broadly as the use of law as a tool to empower the poor and marginalized.¹ The 2008 report by the high-level Commission on Legal

*This white paper was produced in collaboration with the Open Society Justice Initiative. We would also like to thank Stephen Golub, Tiernan Mennen, Zachary Zarnow, and Rachel Aicher for their contributions.
¹ For a thorough examination of the various definitions of legal empowerment, see Stephen Golub, "What is Legal Empowerment: an Introduction", *Legal Empowerment: Practitioners' Perspective*, eds Golub and McInerney, International Development and Law Organization, 2010, p 10 ("...the San Francisco-based Asia Foundation defines legal empowerment as "the use of law to increase the control that disadvantaged populations exercise over their lives." A 2003 paper for a Washington, D.C. policy institute, the Carnegie Endowment for International Peace, modifies the Asia Foundation definition to encompass "the use of legal services and related development activities to increase disadvantaged populations' control over



Empowerment of the Poor describes legal empowerment as “a process of systemic change through which the poor and excluded become able to use the law, the legal system, and legal services to protect and advance their rights and interests.”² It is a part of rule of law development while also expanding the field. Legal empowerment builds the rule of law by bolstering equitable solutions to disputes and conflict and increasing the demand for responsive and transparent institutions. It exceeds typical government-focused rule of law approaches by emphasizing the role of the citizen and community as the ultimate agents of reform and social change.

In examining rule of law and democracy efforts abroad, Thomas Carothers of the Carnegie Endowment for International Peace emphasized what he calls “the missing link of power” as one key factor undermining change efforts. Giving short shrift to structures of power and interests, he points out, has led to program failures in many cases, from efforts of judicial reform to campaigns for legislative change.³

Legal empowerment is a paradigmatic shift in law and development that addresses this “missing link of power” described by Carothers. It attempts to bring balance to development approaches by bolstering citizens and communities as agents and partners in reform. Legal empowerment is not an entirely new concept. It has often been a component of many strategies to integrate rule of law reform and development—whether through administrative reform, public interest litigation, paralegal development, legal services, customary systems, or a host of other measures that, broadly speaking, seek to empower the poor to use legal tools on their own behalf. It has, however, not received the attention or support it deserves as a key approach to international development.

Legal empowerment addresses not just legislation and court rulings, but the many regulations, ordinances, processes, and traditional justice systems that affect the disadvantaged. It emphasizes legal implementation where most stop at having good

their lives.” A 2007 study by the London-based International Institute for Environment and Development, on protecting local resource rights with respect to foreign investment in Africa, states that “empowerment is the process whereby disadvantaged groups acquire greater control over decisions and processes affecting their lives. Legal empowerment is empowerment brought about through the use of legal processes.”)

² *Making the Law Work for Everyone*, Commission on Legal Empowerment of the Poor (2008), available at: [http://www.undp.org/publications/Making_the_Law_Work_for_Everyone%20\(final%20rpt\).pdf](http://www.undp.org/publications/Making_the_Law_Work_for_Everyone%20(final%20rpt).pdf)

³ “[A]id providers responding to the lack of formal justice in a country assess the judicial system, for example, and conclude that it falls short because cases move too slowly, judges are poorly trained and lack up-to-date legal materials, the infrastructure is woefully inadequate, and so on. The aid providers then prescribe remedies on this basis: reform of court administration, training and legal materials for judges, equipment for courtrooms, and the like. What they tend not to ask is why the judiciary is in a lamentable state, whose interests its weakness serves, and whose interests would be threatened or bolstered by reforms. The assistance may temporarily alleviate some of the symptoms, but the underlying systemic pathologies remain.” USAID. *Legal Empowerment of the Poor: from Concepts to Assessment*, March 2007 (quoting Thomas Carothers, *Aiding Democracy Abroad: The Learning Curve*. Washington, D.C.: Carnegie Endowment for International Peace, 1999)



laws on the books. Legal empowerment practitioners enforce those laws by working with communities to ensure local policies and power dynamics do not undermine the intended effect. Legal empowerment focuses on the poor, who are disproportionately women, minorities, and other populations victimized by discrimination and other forms of injustice. Although legal empowerment often inspires changes in government policy, it is aimed at strengthening the capacity of local communities to stimulate this reform and exercise control over the policies that affect their lives.

The concept of legal empowerment received further attention with the 2008 Final Report of the Commission on Legal Empowerment, co-chaired by Hernando de Soto and Madeline Albright. The Commission narrowed the focus of legal empowerment to four pillars: 1) property and land rights, 2) labor rights, 3) business rights, and 4) access to justice. This approach, while unnaturally limited, is appealing due to its explicit linking of human rights, rule of law and economic opportunity. Building very much off of De Soto's work in *The Mystery of Capital*, it advocates for legal and structural reforms that empower the poor as agents in their own development. Three years later, the international community is still grappling with the basic question of "how do you do it?" This paper frames the "how" and introduces the unique community-led approach of the Haki Network.

DEVELOPMENT IMPACT

Economists have long emphasized that rules and the institutions to enforce them are the building block for economic development.⁴ Empirical evidence linking the two has been hard to come by but in large part, there is broad acceptance that such a link exists.⁵ Rule of law development theory seeks to reinforce this connection, even as it fosters justice, good governance, and democracy as ends in themselves.⁶

The Nobel Prize winning economist Amartya Sen argues that development's ultimate goal is to advance people's freedoms and capabilities.⁷ Legal empowerment draws on this concept by measuring developmental impact not only in economic terms but also as the enhancement of freedoms and capabilities.⁸ At the same time, legal empowerment

⁴ See generally, Thomas Hobbes, *Leviathan*, Edwin Curley ed., Hackett Publishing 1994; David Trubek, "Max Weber on Law and the Rise of Capitalism", *University of Wisconsin Law Review*, Volume 3, 1972; Friedrich A. Hayek, *The Road to Serfdom*, Univ. of Chi. Press 1965.

⁵ See. Stephen Haggard, Andrew MacIntyre, and Lydia Tiede, *The Rule of Law and Economic Development*, *Annual Review of Political Science* (2008), pp. 205.

⁶ We acknowledge that rule of law and legal empowerment does not take place in a vacuum but needs to consider the cultural, political, and economic realities on the ground. Economic growth influences and is influenced by many factors and is not inherently akin to poverty reduction.

⁷ Amartya Sen, *Development as Freedom* (Oxford University Press, 1999).

⁸ Various studies have provided frameworks for measuring empowerment: see *Legal Empowerment of the Poor: From Concepts to Assessment* (USAID, 2007) (articulating the need to develop indicators to measure aspects of legal empowerment such as rights enhancement, rights awareness, rights enablement, and rights enforcement); Ruth Alsop and Nina Henderson, *Measuring Empowerment in Practice: Structuring*



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

While the UN Millennium Development Goals (MDGs)⁹ do not explicitly discuss rule of law or legal empowerment and its benefits, many academics and practitioners have acknowledged that achievement of the MDGs is dependent on strengthening the rule of law and improving access to justice.¹⁰ For example, the third MDG to promote gender equality is based on a broad international consensus that gender equality and economically empowered women can drive economic growth.¹¹ “Women’s participation in the economy has an impact from the household level up to the national and regional economic level.”¹² According to the Africa Partnership Forum, the limited education and employment opportunities for women in Africa have reduced annual per capita growth by 0.8%. Had this growth taken place, Africa’s economies would have doubled over the last 30 years.¹³

Legal empowerment has also exhibited a potential to bolster the MDGs by improving provision of public services (education, health, etc.) and social accountability of the state. Legal empowerment approaches, such as community-based paralegals, have

Analysis and Framing Indicators (World Bank, 2005) (discussing measurable indicators of empowerment such as existence of choice, use of choice, and achievement of choice within the domains of state, market, and society); Dee Jupp, Sohel Ibn Ali, and Carlos Barahona, *Measuring Empowerment? Ask Them* (Sida Studies in Evaluation 2010) (describing an innovative method for measuring empowerment that quantifies qualitative outcomes from people’s own analysis of a social movement project in Bangladesh).

⁹ See <http://www.un.org/millenniumgoals/> (The eight MDGs are defined broadly as: End Poverty and Hunger, Universal Education, Gender Equality, Child Health, Maternal Health, Combat HIV/AIDS, Environmental Sustainability, Global Partnership); for more discussion on achieving the MDGs see: http://content.undp.org/go/cms-service/stream/asset/?asset_id=2620072 ; For more information on the MDGs, see: <http://www.mdgmonitor.org/goal3.cfm>. For information on measuring gender inequality, see: <http://genderindex.org/>

¹⁰ See, for example. Nina Berg, Haley Horan, and Deena Patel, *Women’s Inheritance and Property Rights: a Vehicle to Accelerate Progress towards the Achievement of the Millennium Development Goals*, *International Development and Law Organization Legal Empowerment Working Paper*, No. 13, 2010. Available at: <http://www.idlo.int/english/Resources/publications/Pages/Details.aspx?ItemsID=164>

¹¹ See generally. <http://genderindex.org/>; *Gender Equality as Smart Economics: A World Bank Group Gender Action Plan* (Fiscal Years 2007-10) also see *Engendering Development Through Gender Equality in Rights, Resources, and Voice*, World Bank Policy Research Report (Oxford University Press, 2001).

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

¹³ Africa Partnership Forum Support Unit and NEPAD Secretariat, *Gender and Economic Empowerment in Africa* (2007); Gender and Corruption in Development Cooperation Workshop, Eschborn, 10-11, 2008, GTZ; see also <http://www.gtz.de/en/themen/politische-reformen/demokratie-rechtsstaat/10524.htm>; Pierre-Guillaume Méon and Khalid Sekkat, *Does Corruption Grease or Sand the Wheels of Growth?*, *Public Choice* vol. 122, no. 1/2 (Jan. 2005) pp. 69-97.



facilitated greater civic engagement in the governance process, including monitoring government expenditures versus local outputs.¹⁴

LEGAL EMPOWERMENT INTERVENTIONS AND ACHIEVEMENTS

The Haki approach to legal empowerment consists of a comprehensive spectrum of interventions that range from basic legal literacy to community mobilization for legal and policy reform. Activities and methodologies follow an ascending scale of sophistication grouped into three orders: (i) basic interventions of legal awareness, (ii) middle-order interventions that focus on problems faced by individuals and communities use a combination of formal and informal support mechanisms, and (iii) high-level strategies that focus on the policy constraints that persist irrespective of progress in resolving individual/community cases.

- *First-Order Interventions* include basic legal awareness raising, or “legal literacy” work that educates the public about its legal rights and obligations, institutional structures of the legal system, and specific mechanisms that marginalized groups can use to advance their interests. This can include:
 - Print, broadcast and internet media; informational flyers, pamphlets and posters; radio and TV outreach; dramatic performances; and wireless/SMS tools.
- *Second-Order Interventions* focus on resolving legal problems and administrative challenges that are faced by marginalized groups. Interventions are community-driven and provide both formal and informal legal services, including mediation. Paralegals are a key mechanism for implementation at this level. They are able to address informal/formal divides, understand local context, are cost-effective, and help ensure programs are in touch with communities.¹⁵ Activities include:
 - Legal counseling and advice; mediation and dispute resolution in communities; administrative procedures such as identification documents, land titling, and business registration; legal aid and representation in the formal system
- *Third-Order Interventions* are designed to have an impact on highest-level policy constraints and systemic factors that shape the circumstances in which legal problems arise. They target persisting inequitable power relations that continually marginalize the poor. Activities include:

¹⁴ For more information on the role legal empowerment plays in social accountability see, Vivek Maru, “Allies Unknown: Social Accountability and Legal Empowerment”, *Health and Human Rights*, Volume 12, No. 1 (2010), available at: <http://www.hhrjournal.org/index.php/hhr/article/viewFile/205/318>

¹⁵ For a more in depth discussion of community paralegals and their benefits, see *Between Law and Society: Paralegals and the Provision of Justice Services in Sierra Leone*, Open Society Justice Initiative (2006), available at: http://www.soros.org/initiatives/justice/focus/legal_capacity/articles_publications/publications/between-law-and-society-20100310



- Public interest litigation; policy and law reform advocacy; legislation drafting; administrative advocacy; justice system reform; corruption monitoring.¹⁶

Comprehensive, multi-faceted legal empowerment programs are nascent in inception. Most legal empowerment efforts are carried out by local organizations fighting for a restructuring of legal orders to not exclude the marginalized. A few legal empowerment projects have been implemented as a subset of activities of larger rule of law programs or, in the case of the multilateral investment banks, part of a large loan. But these donor-driven projects have not usually contained the full spectrum of activities detailed above, focusing only on, for example, legal literacy or legal representation.

Legal empowerment programming should take on different characteristics depending on country context and need but strive for maximum impact by covering the full range of interventions detailed above. For example, mediation and dispute resolution is often emphasized in post-conflict countries. In transition countries administrative procedures take precedent around issues of privatization of land and service delivery. In other countries chronic injustice around issues of customary treatments of gender violence, inheritance and pre-trial detention further marginalizes the poor and vulnerable.

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

In the mid-1990s a coalition of local CSOs was formed in the **Philippines** to engage implementation efforts of a new Agrarian Reform Law. The coalition trained over 1,000 farmers as community paralegals, conducted legal clinics across twenty-two project areas, and helped with administrative procedures for the transfer of over 100,000 hectares. ADB researchers interviewed officials from the Department of Agrarian Reform, solicited survey responses from approximately 400 villagers, and conducted focus groups in local communities. This information was drawn from communities where legal empowerment activities had taken place, and from control communities that were similar in demographics and location but where no legal empowerment projects were implemented. The researchers concluded that in communities where legal empowerment projects were implemented, land reforms resulted in residents with higher levels of productivity, higher incomes, more

¹⁶ Asian Development Bank, *Legal Empowerment for Women and Disadvantaged Groups*, Final Report (2009), p. 41 (The Asian Development Bank has supported legal empowerment pilot projects in Bangladesh, Philippines, Indonesia and Pakistan over the past decade)



disposable income, and more investment in their farms.¹⁷ More recently, in 2008, the Philippine coalition helped organize, advocate and file a successful class action case on behalf of hundreds of Sumilao farmers to restore land illegally expropriated by a large corporation.

Timap for Justice has pioneered community paralegal work in **Sierra Leone** since 2003. Sierra Leone emerged from a brutal civil war in 2001 that had largely taken place in rural areas. There was a critical need for social reparation. Timap is a Sierra Leone NGO that uses a network of local paralegals, supervised by lawyers, to benefit rural and marginalized populations by conducting legal literacy campaigns, providing legal advice and consultation, and addressing higher-level legal and policy issues through strategic litigation and advocacy. Sierra Leone has a scarcity of lawyers and legal institutions, especially outside of the capital Freetown. Timap paralegals are often the only resource for addressing disputes. A study by the World Bank in 2009 found that Timap paralegals filled an important gap in settling disputes that would otherwise go unresolved.¹⁸ According to client interviews, Timap paralegals are more accessible (Timap services are free), help resolve disputes quickly, are culturally aware, are effective at dealing with institutions, and empower communities. Timap operates 13 offices in rural population centers and handles a range of cases including, gender-based violence, divorce, alimony, contract enforcement/debt, theft, assault, land, labor, insulting conduct, and witchcraft.

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

In **Ecuador** the World Bank funded, as part of a large loan, the creation of five small legal aid clinics in Quito, Guayanaquil, and Cuenca to help poor women and their children.¹⁹ The clinics provide legal consultation, representation and dispute resolution services. Over two years (1995-1997) the five clinics helped almost 17,000 poor women - an average cost of \$15 per client. A study on impact found that not only were the clinics less expensive than private lawyers, they were also more effective. Female legal aid clients had a 10.4% increase in probability that

¹⁷ Stephen Golub and Kim McQuay, Legal Empowerment: Advancing Good Governance and Poverty Reduction, Appendix 1: The Impact of Legal Empowerment Activities on Agrarian Reform Implementation in the Philippines (Asian Development Bank, 2001). Available at:

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

¹⁸ *Delivering Justice to Sierra Leone’s Poor*, Justice for the Poor Working Paper Series, World Bank (2009), available at: <http://www->

wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2009/12/04/000112742_20091204184834/Rendered/PDF/518850REPLACEM1arch0Report0Nov02009.pdf

¹⁹ \$256,780 of the \$10.7 judicial reform project went to the legal clinics. The rest built new courts and installed modern case administration centers. Available at:

<http://siteresources.worldbank.org/INTEMPowerment/Resources/486312-1098123240580/tool14.pdf>



they would receive child support and average support payments were up to 50% higher. In about half of the cases where legal aid resulted in child support payments, that payment accounted for 39% or more of what the household spent per month on feeding one individual. This, coupled with a 17% reduction in the probability of suffering from domestic violence following a divorce, results in improved economic conditions for women.²⁰

In **Bangladesh**, an ADB-financed study carried out by the Asia Foundation conducted a controlled comparison survey to measure the impact of NGO activities in target beneficiary communities. The three NGOs studied employ different community-driven strategies to empower local populations – some less more legal than others. One of the NGOs, the Madaripur Legal Aid Association has become well-respected for community legal service delivery. The study found that all intervention populations experienced reduced socioeconomic vulnerability compared to control populations. All scored higher in four critical areas: general knowledge of law; engagement and confidence in citizen advocacy; positive perceptions of gender equity and the role of women in governance; and confidence in the value of law and good governance. The most sizable gains in these areas were achieved where legal empowerment activities were conducted as part of an integrated development approach that combines legal and socioeconomic development activities; where high levels of women’s leadership were sustained through the program period; and where women’s direct participation was facilitated by and through community advocacy efforts. Where the strategy focused on mobilizing community advocacy initiatives and engaged public officials, those surveyed expressed greater confidence in governance and public services. They also are more likely to view advocacy for land rights as a positive action. The survey results further suggest that success in securing legally-mandated control of common lands by, or for the benefit of, the poor is facilitated by regular citizen-government engagement. The study also showed that legal empowerment efforts had made measurable impacts on the status and material circumstances of women by restraining the illegal practice of paying dowry. Women’s families from populations where legal empowerment projects took place paid dowries less often and in smaller amounts than families from control group communities. In the same study, researchers found that women exposed to legal empowerment projects reported having cash savings for emergencies at a much higher rate than women from control communities.²¹

Legal empowerment projects in **Ukraine** have helped address growing inequality and increased marginalization of rural populations. Ukraine has provided an

²⁰ Impact of Legal Aid: Ecuador (World Bank, 2003).

²¹ Stephen Golub and Kim McQuay, Legal Empowerment: Advancing Good Governance and Poverty Reduction, Appendix 2: The Impact of Legal Empowerment on Selected Aspects of Knowledge, Poverty, and Governance in Bangladesh: A Study of Three NGOs (Asian Development Bank, 2001). Available at: http://www.adb.org/documents/others/Law_ADB/lpr_2001_Appendix2.pdf



interesting case study for measuring legal empowerment impacts and justice needs in a transitional country. Thirteen Community Legal Centers were opened in remote factory and agrarian towns in March 2010. Within five months of operations the centers had already received 4,000 petitions for assistance. Over 60% of all cases received by the Centers are disputes centered on land, housing, pension, inheritance, labor, public services (utilities, etc.) and other administrative matters. The project has focused primarily on legal education and dispute resolution to date. Analysis of cases has revealed chronic legal issues affecting the poor. The project will enter a second phase to address long-term benefits to the poor by conducting advocacy campaigns and bringing strategic litigation on the most pertinent and systemic issues at the regional and national level.

A variety of legal empowerment activities have been supported in **Indonesia** over the past five years. UNDP, ADB and the Justice for the Poor Program at the World Bank have supported work to empower women's groups, extend paralegal counseling services to marginalized communities, and empower citizens to access and make demands for responsive public services.²² The Indonesia Legal Aid Foundation (YLBHI) is a long-standing organization that has lead legal empowerment approaches and advocated for adoption of a publicly-funded legal aid system. YLBHI provides legal counseling and representation to the poor and trains marginalized communities, including farmers, laborers and the urban poor, to work as paralegals. YLBHI trainings and activities have provided a range of benefits not easily captured with quantitative case data. One particular story of Mbak Rini might be the most insightful:

Mbak Rini was trained by YLBHI as an urban paralegal. She is the only woman leader of the sidewalk traders association *Paguyuban Depan Mesjid Baiturahman* (PKL) in Semarang city. In 2000, the city government executed Regional Regulation No. 11/2000, an order expelling the sidewalk traders in the area where she ran her small business. This unfair practice compelled her and her peers to establish PKL and through collective advocacy and adept negotiation successfully challenge the regulation to include exceptions for PKL and others. Mbak Rini did not stop there. She discovered that the law called for exemptions to mandatory educational payments for poor families. The practice of school officials was different. Mbak Rini organized other parents around the

²² See. Asian Development Bank, *Legal Empowerment for Women and Disadvantaged Groups*, Final Report (2009), at <http://www.adb.org/Documents/Reports/Legal-Empowerment/default.asp> ; *Legal Empowerment of the Poor: Lessons Learned from Indonesia*. UNDP, YLBHI, Commission on Legal Empowerment of the Poor (July 2007), available at: <http://www.undp.org/legalempowerment/pdf/Indonesia.legal%20empowerment%20of%20the%20poor.pdf> ; Justice for the Poor World Bank program documents available at: <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/EASTASIAPACIFICEXT/INDONESIAEXTN/0,,contentMDK:22352187~pagePK:141137~piPK:141127~theSitePK:226309,00.html>



issue and reported the case to the Semarang City government. The school was sanctioned and payment requirements for poor families eliminated.²³

The work of a local organization in **Zimbabwe** illustrates similar qualitative impact of legal empowerment work around issues of communal land tenure. According to Zimbabwean law, communities do not own the land and natural resources in their locality. Most communities live on communal land that has been designated as State land since independence.²⁴ Therefore the State has exclusive ownership and use of all resources, but grants usufructuary rights to communities through the Rural District Councils (RDCs). RDCs have management authority over all land and natural resources located in communal areas. Once they are registered as legal entities communities can engage with the RDCs in order to obtain management authority over the natural resources within their area and challenge land laws, policies and decisions that do not promote their interests. The Zimbabwe Environmental Law Association (ZELA) worked with one such community in southern Zimbabwe to register them as a trust and formed the Chibhememe Earth Healing Association (CHIEHA). Through a long, consultative process with government ministries and the local RDC the CHIEHA gained control over management of its natural resources within and along the Great Limpopo Transfrontier Park.²⁵ CHIEHA has now become an important voice for communities of the Chibhememe region and is able to influence and negotiate with the government in the interest of the community. CHIEHA has also mobilized funding for better management and contributed to development of benefit-sharing mechanisms for the region.²⁶

In **Bolivia**, a USAID-funded project helped create a network of thirteen community justice centers around the country. The centers are based in poor communities and provide mediation, legal counseling, legal awareness, and generally serve as a portal to the formal justice system. The centers have been highly successful in engaging local communities through outreach, volunteer programs and by drawing staff from the area. Since 2004, the centers have attended to over 150,000 cases and directly trained over 48,000. However, the Bolivia project also provides a cautionary tale on legal empowerment programming. The project was designed to be implemented by an international NGO in partnership with the Ministry of

²³ *Legal Empowerment of the Poor: Lessons Learned from Indonesia*. UNDP, YLBHI, Commission on Legal Empowerment of the Poor (July 2007), available at: <http://www.undp.org/legalempowerment/pdf/Indonesia.legal%20empowerment%20of%20the%20poor.pdf>

²⁴ There are numerous examples across the developing world of this type of legal relationship where the State has exclusive ownership over land and natural resources. Most are the result of persistent colonial legal orders that benefited the resource extraction activities of colonial powers.

²⁵ GLTP extends into South Africa and Mozambique where communities have gained similar management control.

²⁶ From *Legal Empowerment in Practice: Using tools to secure land rights in Africa*, ed. Lorenzo Cotula, Paul Mathieu. IIED, FAO (2008), available at: <http://www.iied.org/pubs/pdfs/12552IIED.pdf>



Justice. The Ministry approved project expenditures and activities. As a result, the centers were strictly service providers and were not allowed to strongly advocate on behalf of communities on many policy reform issues. They were also not allowed to bring cases against the government for denial of rights. In 2009, four months before national elections, the Ministry usurped management of the centers and fired all staff, community mediators and lawyers. They were replaced by inexperienced persons widely considered beneficiaries of political nepotism. An essential aspect of legal empowerment programming is insulation from political control. This affects projects in two ways – it allows for advocacy and litigation activities contrary to entrenched, sometimes government-aligned interests and it ensures that project implementation, in its many facets, is responsive to and driven by the local communities it serves.²⁷

Measuring impact of legal empowerment and rule of law projects in general is a developing field. A recent USAID Legal Empowerment evaluative paper proposed an LEP Index equation organized around “bundles” of activities: $LEP = RH + RA + RE + RN$ (RH refers to *Rights Enhancement*, RA refers to *Rights Awareness*, RE refers to *Rights Enablement*, and RN refers to *Rights Enforcement*). It proposed related indicators and a logical framework for evaluating outcomes according to each bundle.²⁸

International development agencies and institutions have, however, generally struggled to measure concepts such as “justice” and “good governance”, especially in comparison to child mortality rates or other more easily quantifiable results from other fields. A critical goal of Haki is to create a development outcome framework - both quantitative and qualitative – and assist partner organizations to analyze impact through cost-effective methodologies.

²⁷ See. Tiernan Mennen, “The Mystery of Legal Empowerment: Livelihoods and Community Justice in Bolivia”, No. 6, in *Legal Empowerment Working Papers*, IDLO (2009), available at: http://www.idlo.int/publications/LEWP/Mystery_LEP.pdf

²⁸ Studies on measuring legal empowerment include: *Legal Empowerment of the Poor: From Concepts to Assessment*. USAID (2007); Ruth Alsop, Nina Heinsohn, *Measuring Empowerment in Practice: Structuring Analysis and Framing Indicators*, World Bank Policy Research Working Paper 3510 (February 2005) (proposes an analytic framework for gathering data and analyzing empowerment outcomes more generally, including measurable indicators of empowerment such as existence of choice, use of choice, and achievement of choice within the domains of state, market, and society; details three levels of empowerment outcomes: The *local level* will comprise the immediate vicinity of a person’s everyday life This is likely to be the level of an area contiguous with their residence. The *intermediary level* will comprise a vicinity which is familiar but which is not encroached upon on an everyday basis. This is likely to be the level between the residential and national level. The *macro level* will comprise a vicinity which is the furthest away from the individual. This is likely to be the national level.)



SUMMARY

In summary, legal empowerment is an essential component of the struggle for both justice and development. The challenges and obstacles of effectively implementing legal empowerment programs are immense. It is important to appreciate that legal empowerment is a long-term process and that the best results are achieved over time. The results mentioned here are promising, but mostly suggest, rather than conclusively affirm, the impact of legal empowerment in the context of donor-funded development programs. Continued commitment and sustained resource allocation by donors will allow for further study, design, implementation and assessment of pilot legal empowerment projects and their impact on broader themes of development, economic growth and freedom.

