

Legal Empowerment of Rural Poor: A Pathway Out of Poverty

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Introduction

Recent years have witnessed growing attention on legal empowerment as a strategy for helping the poor get out of poverty; overcome economic inequalities; create economic opportunities; and improve their access to credit and financial services. As a process for reform, legal empowerment requires action not only at the levels of policymaking and legal institutional framework, but also at the level of the people. In other words, whatever protective and enabling legal and policy frameworks exist, the effectiveness of legal empowerment will depend on the knowledge and capacities of those responsible for their interpretation and implementation. Its effectiveness will also depend upon the capacity and confidence of men and women to legally assert their rights through the available legal procedures; and exercise the possibility to access the legal system and attain legal services.

Food and Agriculture Organization of the United Nations (FAO)'s work in land tenure, forestry, and fisheries management has long focused on enabling participatory and community-based approaches, and has more recently focused on legal literacy and empowerment of the rural poor. The FAO experience at the country level indicates that *paralegal training programmes* are a viable approach to improving respect for and ensuring protection of people's rights to land and other resources. These programmes increase capacity at the country level to influence institutional and legal reforms, and to implement reforms in practice. Furthermore, *paralegal training programmes* can also contribute to improving gender equality in agriculture by strengthening women's access and rights to land and other resources and services, and their participation in decision-making processes.

The next section of this paper highlights two examples of FAO's work on legal empowerment at the country level.

Legal empowerment at local level in Mozambique: Exercising and defending land and other resource rights

FAO has been actively supporting the Government of Mozambique in the development and implementation of its progressive legislation on land and natural resources. The 1997 Land Law was developed with FAO technical support not long after the end of a protracted civil war in late 1992, when the country was at the early stages of a full transition to a market driven economy¹. This legislation recognises customarily allocated and managed rights over land, according them full equivalence to the State 'Land Use and Benefit Right (DUAT, to use the Portuguese acronym)'. It also creates a legally defined "local community" within which local rights are administered according to local norms and practices; and the mandatory holding of consultations between communities and investors who want access to local land.

Since the adoption of this new legislation, the challenge has been to implement the 1997 Land Law in order to - in the words of the 1995 National Land Policy - '*secure the rights of the Mozambican people over land and other natural resources, as well as promote investment and the sustainable and equitable use of these resource*'.

Given the innovative nature of the rights-based and participatory approach espoused in the new legislation, it was recognised early on that the new law, and other new laws on forestry, wildlife, and the environment would require effective legal oversight. Thus, in 2001, FAO began the first of several Dutch government funded projects. FAO worked with a new but important government institution within Mozambique's Ministry of

Justice - the Centre for Juridical and Judicial Training (CFJJ). FAO's project with CFJJ focused on providing judges and public prosecutors with a grounding in what for most of them were new laws dealing with a relatively unknown area of work – land and resources management, and more specifically, elements of customary norms and practices which the 1997 law had successfully integrated into a single national legal framework for land.

During this first stage, several factors became salient: 1) community level legal support was needed; 2) that most local government officers had little real idea about the content of the new laws and/or how to use them in practice. This led on to a more decentralised form of legal empowerment and capacity building at local levels, with a twin-track programme of civic education and capacity building was developed at the CFJJ, with two main elements:

- Providing training selected NGO and public sector officers working as paralegals in rural development, land, environment and natural resources law and rights;
- Capacity development for local government and judicial teams in the fundamentals of the Constitution; the basic principles of the new laws; and how to use them to promote a participatory and equitable form of rural and local development.

The courses and seminars have adopted an open and participatory approach by bringing together various actors from different groups (for example, NGO workers and local government officers during paralegal trainings; key public sector figures from both the executive and judicial branches during the “District Officer Seminars”). The format of these courses and seminars promotes dialogue and favours sharing views, thus building confidence and breaking down barriers that can separate these different groups. Furthermore, these courses and seminars work to ensure that all sides receive the same information about legislation and rights from a reputable national legal training institution.

Since 2010, the CFJJ-FAO programme incorporates another project since 2010, funded by Norway, which focuses on the issue of gender and women's rights over land. Paralegal programmes specifically for women's NGOs are being run, with follow up provided for the paralegals when they go back to the communities where they work, and begin the challenging task of changing attitudes and, where possible, seeking to adjust local practices to bring them into line with over-arching constitutional principles on the equal treatment of women when it comes to land and resources access.

While it is difficult to assess impact at this early stage, also considering that many other factors influence the successful use of rights for development, anecdotal evidence indicates that the training model has kept alive the debate over how to recognise, defend and use acquired rights. The training does also provide communities with at least a minimal level of legal support at key points in the local development scenario. The challenges met along the way have been complex and at times difficult to overcome. In the first place, it was necessary to design a new paralegal training programme from scratch, and then turn this product into a sustainable training instrument with its own materials and guidelines².

Finding a key national champion which also espouses a participatory approach to training and has a strong commitment to the rule of law has been a critical element of success in this innovative programme. With its core, officially mandated role to train the national judiciary, the CFJJ is also able to present a range of messages and guidance on how new and progressive laws should be applied, from a position of authority, which groups opposing certain aspects of the progressive laws find hard to challenge.

Tackling legal empowerment of men and women farmers in Kenya: Farmer field and life school approach

More recently, FAO has focused on bottom-up empowering of men and women farmers through its Farmer Field and Life Schools (FFLS) approach. Based on the participatory agricultural extension approach of Farmer Field School (FFS), FFLS is a learning process aiming at empowering farmers to understand the larger socio-economic and cultural context and factors which influence their lives and livelihoods.

The first experience of using this approach for raising awareness of farmers on legal issues and strengthening their capacity to use law and legal services has been experimented in Kenya, at the Coastal Province. The Farmer Field School-Reproductive Health (FFS-RH) project implemented in four coastal districts, in collaboration with the Association of Women's Lawyers (FIDA Kenya), successfully integrated a number of legal issues in their participatory trainings. They include reproductive rights, gender-based violence, property rights and children's rights.

According to an FAO case study undertaken to document this experience³, the paralegal trainings generated several positive effects: *inter alia*, a number of trained persons started providing advice to neighbouring communities both in the field of agriculture and legal issues (e.g. widows' property rights); some facilitators provide assistance to village orphans by ensuring that they attend school and by protecting their property. In a few cases, the increased awareness on legal rights and available legal services has served as a protection against dispossession of widows. The impact was also felt on the side of rural populations' food security as food production in the area has increased despite the drought.

Conclusion

FAO has found that legal empowerment can play a significant role in ensuring respect and protection of rural men and women rights, and enhance their food security and livelihood. It is most effective when bottom-up empowerment of people are combined with legal and institutional reforms, and when a two-track approach of training both rights holders and duty bearers is used.

Some of the challenges to effective implementation of these approaches include the following: the need for continued efforts, as new realities call for new legal and institutional reforms and then new capacity development efforts; the pressures on land and other natural resources contribute to pressure on existing, legally recognised rights; and the need to place legal empowerment efforts in the larger rural development context, requiring a holistic vision and attention to other development needs.

Legal empowerment makes people aware and gives them confidence to engage and act with what are still often more powerful social and economic forces. It is still only part of the solution however, and certainly does not mean that "empowered people" can then be left to fend for themselves. Follow up and the availability of accessible legal support are still needed, through specialised NGOs and access-to-justice mechanisms. And it is equally important to continue with other "attitude changing" exercises, which are especially important in the case of women, whose legal empowerment depends as much upon changing the attitudes of traditional, conservative male leaders, as it does upon women themselves being given knowledge about their rights under law and how to use and defend them.

Endnotes

¹ See Christopher Tanner, *Law Making in an African Context: the Mozambican Land Law*. FAO Legal Papers Online, No 26 (2002). www.fao.org/legal

² For example the *Manual para a Delimitação dos Direitos das Comunidades'* (Interministerial Land Commission and the CFJJ), and the *Manual para Paralegais na Area dos Recursos Naturais, Ambiente e Desenvolvimento* (CFJJ), both produced with FAO technical assistance and Netherlands funding. A video on paralegals and gender issues has also been made by the Norwegian funded project at the CFJJ on gender and women's land rights (available from the FAO Development Law Service, LEGN).

³ See Dubravka Bojić-Bultrini, Carol Djeddah, Karine Garnier & Eliane Najros, *Tackling Legal Empowerment: the Farmer Field and Life School Approach*, Workshop Report (March 2009), http://www.fao.org/fileadmin/templates/dimitra/pdf/fls_legal_empowerment.pdf.