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Using legal empowerment to curb corruption and advance accountability

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Legal empowerment refers to the use of laws and rights to increase relatively powerless populations' control over their lives. A growing field, it overlaps with social accountability but emphasises laws and rights. Legal empowerment can help curb corruption and promote accountability in education, health, budgeting, formal and informal justice systems, and democratic governance. Development agencies, governments, and civil society should take account of the many ways in which legal empowerment can bolster anti-corruption efforts.

Main points

- Legal empowerment is about helping people to know, use, and shape the law.
- Legal empowerment helps build people's capacities and power to improve their lives, such as by elevating and protecting their income and assets or gaining greater access to health and education. This may involve combating corruption in both explicit and implicit ways, as corruption is often an obstacle to such goals.
- Legal empowerment can help equip people, especially the poor and marginalised, to use the law to enforce their rights, which are often violated as a result of corruption. People can enforce their rights through social accountability processes that seek to monitor public officials and public services, or they can take their cases to courts of law or administrative bodies.
- Legal empowerment also equips people to advocate for and effect changes in laws, rules, systems, and regulations in ways that will improve their ability to enjoy their human rights and live better lives.
- Civil society organisations are leading promoters of legal empowerment activities, although government agencies can also play a role.
- Donors should support legal empowerment as a multifaceted means for constraining corruption, often in the context of sector-specific programmes.

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The growing field of legal empowerment

For more than 15 years, the growing, evolving field of legal empowerment (LE) has gradually gained increasing attention. Legal empowerment is defined as the use of laws and rights specifically to increase relatively powerless populations' control over their lives – or, in short, as helping people to know, use, and shape the law. The enhanced prominence of the concept partly springs from research and analyses conducted by, for, or under the auspices of such entities as the:

- Asia Foundation and Asian Development Bank¹
- Carnegie Endowment for International Peace²
- Commission on Legal Empowerment of the Poor³
- United Nations General Assembly⁴
- International Development and Law Organization⁵
- Open Society Justice Initiative⁶
- United Nations Development Programme⁷
- Overseas Development Institute⁸
- Namati – an international non-governmental organisation⁹
- International Institute for Environment and Development¹⁰
- and in leading public health research centres¹¹

Similarly, LE plays an increasing role in the work of international institutions. This role has often been implicit, in that the nature of the work may involve LE even when the term itself is not employed. This applies to many initiatives that are undertaken in connection with sectoral work regarding access to justice, informal justice systems, local governance, education, health, natural resources, and other fields. The term 'legal

1. Golub and McQuay 2001.

2. Golub 2006.

3. 2008.

4. 2009.

5. Golub 2010a.

6. Golub 2013.

7. UNDP 2014.

8. Domingo and O'Neill 2014.

9. Goodwin and Maru 2017.

10. Cotula et al. 2019.

11. Footer et al. 2018.

empowerment' often is not used in describing such initiatives, even though they involve LE operations.

However, many institutions, including country-specific and international non-governmental organisations (NGOs), do explicitly utilise the term. To cite just a few examples:

- Namati focuses on legal empowerment and coordinates a Global Legal Empowerment Network with over 5,000 members.
- Institutions involved in initiating, implementing, funding, or researching LE initiatives to various degrees include:
 - Open Society Foundations' Justice Initiative
 - Public Health Program
 - International Development Law Organization
 - United Nations Development Programme
- New York University Law School's Bernstein Institute for Human Rights convened a 2018 research workshop and conference on LE and remains engaged with the field.

Whether or not the term is explicitly employed, a plethora of studies and projects provide strong evidence that LE interventions can help curb corruption. This U4 Issue explores how legal empowerment constrains corruption in service delivery and government operations and otherwise advances accountability.

The concept of legal empowerment

Legal empowerment in practice

As detailed in one article summarising the field,¹² legal empowerment can take many forms in practice:

- A farmers' association helps its members gain greater control of their land, increasing their incomes.
- A local women's organisation uses law and advocacy to combat domestic violence, enhancing the physical security and independence of

12. Golub 2010b, 9.

wives in the area.

- Parents learn how to register the births of their children, ensuring the children's access to education later in life.
- A government public health programme enables impoverished beneficiaries to understand and act on their rights to basic medical services, thus reducing infant mortality.
- An NGO works with grassroots groups to gradually make traditional justice systems – the only law many rural poor people can access, afford, and understand – less gender-biased.
- Market vendors negotiate the right to operate legally and free of harassment, protecting their livelihoods.
- Paralegals (non-lawyers with specialised legal knowledge and skills that enable them to educate or aid disadvantaged people concerning law-oriented issues) help indigent defendants, often jailed unjustly or for years without trial, obtain fair hearings or their freedom.
- Minority groups, HIV-positive people, or the urban poor partner with public interest lawyers to win judicial, regulatory, or legislative victories.

Understanding the terms

As already noted, legal empowerment refers to the use of laws and rights specifically to increase relatively powerless populations' control over their lives. To sketch what each of these component terms means:

- *Laws* include statutes adopted by legislatures, but also administrative regulations and processes as well as traditional justice systems' substantive and procedural rules.
- *Rights* include international human rights standards, but legal empowerment work more typically involves people's entitlements as declared or implied by national or local legislation, regulations, administrative rules, or court decisions.
- *Specifically* conveys legal empowerment's emphasis on rights, laws, services, advocacy, and processes that focus directly on benefiting the relatively powerless (improving impoverished tenant farmers' land tenure or enforcing women's inheritance rights, for instance), as opposed to reforms that may indirectly benefit them (such as strengthening judicial administration or business investment rules).
- *Relatively powerless populations* mainly comprise the poor, but also

include women, minorities, and other groups and individuals who typically suffer abuse, discrimination, marginalisation, persecution, repression, or other kinds of powerlessness relative to more privileged segments of society.

- *Increase control over their lives* can include elevating or protecting people's income and assets, but it also can involve strengthening their physical security, their effective access to health, education, and other services, their input into family, community, and governmental decision-making (as by reforming laws or getting fair laws implemented), and their capacities and power to pursue these goals on their own.

An even more basic approach to understanding LE is that often employed by Namati. This international NGO views LE in terms of helping people to know, use, and shape the law. These three components may be defined as follows:

- *Knowing* the law involves building people's awareness that they have rights or helping them learn about relevant rights and laws that apply to specific circumstances.
- *Using* the law involves people, their representatives, or their allies using legal, administrative, informal justice, or accountability systems to put their rights into effect.
- *Shaping* the law includes effecting changes in laws, regulations, ordinances, jurisprudence, informal justice, or other legal rules and systems that govern people's conduct.

Other characteristics of the concept

Legal empowerment as freedom

Much of legal empowerment reflects Nobel-winning economist Amartya Sen's notion of 'development as freedom'.¹³ It involves increasing people's freedom to improve their lives and to live unburdened by unjust constraints. 'Freedom' in this context heavily overlaps with the LE notion of people gaining increased control over their own lives.

13. Sen 1999.

The legal/rights element

LE is partly defined by its focus on rights and laws; this is a necessary part of the concept, though not its only part. The use of the terms ‘rights’ and ‘laws’ in the definition could be seen as duplicative, but both are nevertheless included in order to help explicate the concept. For instance, where the exercise of rights advances women’s or economic empowerment, the phenomenon is one and the same as legal empowerment. The legal element also comes into play when LE is used to seek remedies for rights violations.

Power more than law

Nevertheless, it is often power – even more than law – that is the key component of legal empowerment, insofar as people exercise or gain more control over (or freedom in) their lives through LE. That power can flow from knowing, using, and shaping the law, as well as from crucial complementary activities such as organising around issues of common concern.

Power, even more than law, is the key component of legal empowerment.

Both a process and a goal

LE is, accordingly, both a process and a goal. The process involves relatively powerless people (and/or their allies) seeking to increase their control over their lives. Achieving such enhanced control constitutes the goal.

Legal empowerment by other names

Development agencies, governments, and NGOs often do not characterise their programmes in terms of legal empowerment, even if they are in effect carrying out or supporting such work. They instead use other terms and tools that partly or wholly overlap with the concept. These terms and tools include legal aid, paralegal development, access to justice, public interest law, social accountability, service delivery monitoring, and citizen

engagement with local government operations or budgeting. A common element, whether explicit or implicit, is that people are being helped to know or act on the law or their rights, or to reform the law.

The legal empowerment–social accountability nexus

Based on years of engagement with the field and definitions offered by many LE practitioners, we maintain that LE and social accountability approaches substantially overlap, since social accountability, at least implicitly, often involves people learning about and acting on their rights to health, education, and other government services. But other perspectives merit acknowledgement as well.

Maru,¹⁴ for example, at one time took a somewhat different tack, arguing that legal empowerment and social accountability ‘ought to learn from one another’.¹⁵ Based mainly on civil society experience, he maintained that legal empowerment is most effective when combined with ‘social accountability,’ by which he meant strategies that ‘employ information and participation to demand fairer, more effective public services’.¹⁶

Maru pointed to social accountability’s emphasis on tools such as social audits and community scorecards. In contrast, legal empowerment programmes, he asserted, sometimes underemphasise injustices in public services because LE programmes are often reactive, depending on communities to raise issues rather than employing proactive social accountability tools. Based on evidence in his article, he argued that a combination of the two approaches can help combat corruption: social accountability programmes can help expose and publicise corruption, while legal empowerment provides people with ways to pursue redress.

Legal empowerment and social accountability approaches overlap.

14. 2010.

15. 83.

16. 84.

A thorough discussion of whether legal empowerment and social accountability are seen in an expansive manner that involves substantial overlap or, alternatively, as entirely different fields is beyond the scope of this paper. As noted, here we will take the more expansive view.

Contrary to his aforementioned 2010 paper, Maru and Namati (which he heads) have come around to employ that expansive view of LE. In a subsequent study co-authored with Goodwin, he places many de facto social accountability projects under the LE umbrella.¹⁷ Regardless, even if one takes the narrower view of LE, it can be seen as working in tandem with social accountability in many contexts to help stem corruption.

Legal empowerment vis-à-vis legal aid

Legal aid is one subset of legal empowerment. The definitions of legal aid can vary, but at its core the concept typically involves the provision of free or low-cost advice, representation, or other assistance to low-income clients.

In some contexts, this definition of legal aid confines the concept to assistance for defendants in criminal cases handled by judiciaries. In such jurisdictions, terms such as ‘free legal services’ are applied to civil cases handled by both judiciaries and other adjudicatory bodies such as land or labour tribunals. For the purposes of this paper, legal aid and legal services are considered one and the same, embracing both criminal and civil matters.

Legal empowerment is a broader concept than legal aid or legal services.

In many countries, legal aid is carried out exclusively by lawyers. Increasingly, however, in a good number of societies paralegals provide such help. Regardless, legal empowerment is a much broader concept than legal aid or legal services. In many or even most instances, it involves processes, forums, rights, and goals that fall outside of the courts’ ambit – and thus outside of a narrowly conceived justice sector. LE does not necessarily involve lawyers or paralegals, since some programmes help

17. Goodwin and Maru 2017.

people know and act on their rights even without the benefit of such actors' engagement (although, as noted, paralegals represent a growing source of LE service in many countries).

Legal empowerment is also broader than legal aid with respect to at least two of LE's attributes. First, LE has a prominent power dimension – helping people gain more control over their lives – that does not figure as centrally in legal aid. Second, LE is partly about shaping or reforming the law, whereas legal aid generally works within the confines of existing laws (except where legal aid lawyers occasionally use their cases as bases for public interest litigation).

Examples of LE benefits, forums, and processes

As suggested by the definition of LE provided above, LE goals can include offering people the following benefits, among others:

- Elevating or protecting income or assets
- Strengthening physical security
- Insuring effective access to health, education, or other services
- Increasing input into family, community, or governmental decision-making
- Building people's capacities and power to pursue these goals on their own

LE forums and processes thus include, but are by no means limited to:

- Criminal and civil courts presided over by judges
- Quasi-judicial land, labour, and housing tribunals
- Both informal and formal mechanisms by which people assert and secure their rights to public services such as education and health care
- Informal and traditional justice systems
- Local government deliberations
- Interactions with police and other security forces

Evidence of legal empowerment's impact on corruption

Educational services and expenditures

In Uganda, local committees operating under the auspices of the Uganda Debt Network monitored the implementation of Uganda's Poverty Action Fund, which has received support from the World Bank and International Monetary Fund. The committees comprised villagers who had received training in civic participation and budget monitoring, presumably – although perhaps implicitly – including training on their rights to undertake such activities and the entitlements of service beneficiaries.¹⁸

Community monitoring in Uganda helped people detect embezzlement of public funds.

The impacts of such training, engagement, and monitoring regarding educational services and expenditures were manifold. Community monitors detected poor-quality construction of classrooms, as well as embezzlement of public funds and other resources. In one noteworthy instance, a monitoring committee was able to secure assistance to produce a documentary film publicising the misuse of classroom construction funds. This drew the attention of the country's prime minister, leading to an investigation, dismissal of the district tender board, and rebuilding of the classrooms by contractors. As a result of these monitoring and reporting efforts, the government revised national guidelines to strengthen public accountability in school construction.

As an indication of how LE-oriented work can influence service delivery on a national level, a case study from Malawi shows that a civil society coalition had an impact on the country's education policy and budget.¹⁹ The paper examines interventions by the Civil Society Coalition for Quality Basic Education (CSCQBE), comprising 67 groups that focused on the right

18. De Renzio, Azeem, and Ramkumar 2006.

19. Ramkumar 2008.

to basic education. The coalition monitored the flow of resources through different levels of government, and its community-based members scrutinised spending at the local level. These efforts detected leakages in funds along the way. Based on its research, CSCQBE mounted media campaigns advocating for more accountable public spending at the local level. These in turn enabled the coalition to influence both the government's budget allocations for children with special needs and a government programme to address educational disparities between urban and rural areas.

Public health services and expenditures

The nexus of legal empowerment work with public health represents another particularly fertile field for cross-sector interaction (in this case, law/rights with health) as a means of combating corruption.

In India, informing women of their rights reduced bribe-taking in a maternal health programme.

A study of a social accountability programme focusing on maternal health in the Indian state of Uttar Pradesh found that a relatively modest intervention – simply informing women of their relevant rights and how to lodge complaints – yielded substantial results. The initiative reduced bribe-taking that had been imposed on programme participants when they were informally and illegally charged for health services that should be provided free of cost.²⁰

In Uganda, a two-study sequence of a 2009 randomised controlled trial and 2012 follow-up research suggests powerful LE impact on both health service delivery and health outcomes.²¹ The LE interventions included enabling Ugandans to monitor and engage with health facility personnel and providing information to the public about the facilities' operations. Both studies ascertained benefits flowing from these interventions, with the informational component proving crucial. The 2009 research found a reduction in mortality of 33% for children under five years old, a 15%

20. Schaaf 2018.

21. Björkman and Svensson 2009; Björkman, de Walque, and Svensson 2012.

reduction in medicines going missing from the facilities, and a 13% reduction in staff absenteeism. The 2012 follow-up, which sought to determine the long-term effects of the initial intervention, found that the reductions had been largely sustained: there was a 23% reduction in mortality for children under five and 27% for children under two, as well as a 12% reduction in medicines going missing.

It must be emphasised that the two studies did not focus explicitly on corruption. However, absenteeism, which was reduced, is a de facto form of corruption, since it entails health services personnel receiving salaries for non-performance. Supplies going missing from the workplace, though it could have various causes, is often associated with misconduct by personnel. Therefore, it is fair to say that the LE-oriented interventions assessed by the studies most likely served to indirectly constrain certain forms of corruption commonly found within the health sector.

A number of other research initiatives have detailed how prevalent such corrupt, counterproductive practices are in the Ugandan health care system. According to the Uganda Inspectorate of Government,²² over 29% of interactions with health services personnel in 2011 involved bribery, and absenteeism rates in medical facilities topped 45%. Ferrinho and Van Lergerghe²³ determined that the illegal resale of medicines was health care personnel's greatest source of income. Among²⁴ reported that the National Drug Authority had discovered that over 100 phantom health facilities founded by corrupt officials were illegally receiving medicines and equipment.

Joshi²⁵ discusses the work of several NGOs elsewhere that are helping people know and act on their rights to hold health service providers accountable, using legal empowerment or social accountability approaches or a combination of both. For example, in Guatemala since 2006, the Centro de Estudios para la Equidad y Gobernanza en los Sistemas de Salud (CEGSS) has helped address inadequate and corruption-prone health care services for indigenous populations through a network of what it calls 'community health defenders.' These persons, who could be considered de facto health care paralegals, receive training that enables them to 'lead

22. 2012.

23. 2002.

24. 2011.

25. 2017.

collective deliberation’ and ‘prepare detailed documentation of the cases’.²⁶ CEGSS in turn helps take these cases to specialised government authorities that deal with discrimination, the rights of indigenous women, human rights violations in general, and (via the ombudsman’s office) service delivery complaints. The NGO complements this effort with an SMS messaging platform that enables it to gather, record, and follow up on health-related complaints and human rights violations.

As part of an analysis of the Citizens Against Corruption programme in India (described below), Landell-Mills²⁷ scrutinised a specific project, Ayauskam, which brought about a significant reduction of corrupt practices by health care officials. The result was decreased bribe-taking by the officials and decreased medical expenditures by the patients. The progress flowed from a variety of activities, including community outreach, meetings, and hearings, as well as monitoring and auditing of health expenditures.

Social safety nets

Through the Citizens Against Corruption programme in the Indian state of Bangalore, the UK Department for International Development funded 15 projects by civil society organisations. These consisted mainly of grassroots community actions designed to constrain corruption affecting social safety net benefits. An evaluation of the programme found significant impact: almost all of the grantee organisations were helping partner populations receive rations, job cards, and other benefits without having to pay bribes. One project also reported the recovery of US\$250,000 in lost wages.²⁸

Landell-Mills²⁹ identifies seven elements contributing to the program’s success:

- People gained confidence in their ability to leverage change, which in turn yielded greater engagement, building further confidence on their part.
- Social accountability tools were used effectively.

26. Joshi 2017, 164.

27. 2013.

28. Landell-Mills 2013.

29. 2013.

- New civil society structures were organised under the rubric of the project to monitor government service delivery and otherwise hold service providers accountable.
- Grantee groups engaged in mutual support activities.
- The project had strong local leadership.
- Constructive relationships were forged with local officials.
- Communities contributed to the cost of the projects.

The author warns, however, that the gains may be fragile and could be reversed if effort and funding are not sustained. His recommendation is that international donor support be replaced by support from private domestic sources.

The Indian NGO Parivartan employs public hearings, community monitoring, and advocacy to battle embezzlement of public funds.³⁰ In one of its anti-corruption campaigns, Parivartan mobilised 300 people to use right-to-information processes to access their food security programme records. This partner population documented the great gaps between the quantities of food they had received and the quantities indicated by the government's food distribution records. The research revealed that 87% of grain and 94% of rice intended for impoverished families was instead sold on the open market. Parivartan drew on these revelations to successfully lobby for establishing a regular system for public scrutiny of records. The author concludes that the campaign was successful because the documentation and publicity imposed reputational costs on the government and brought the matter to broader public attention.

Multiple public services

The Socio-Economic Rights and Accountability Program (SERAP), a Nigerian NGO, works with members of the public to make use of Nigeria's Freedom of Information Act.³¹ Few Nigerians have any awareness of this law or its value. Accordingly, a particular focus of SERAP is to assist partner populations in accessing public information about health, education, and water services provided by local and state authorities. With respect to corruption, SERAP also helps people file complaints with anti-corruption institutions and assists in launching litigation against public agencies. As

30. Pande 2008.

31. Okolloh 2018.

analysed by Ekhtor,³² SERAP has been especially effective in carrying out public interest litigation at the national level. This includes victories in several landmark environmental cases.

A Nigerian NGO helps people use the country's freedom of information law to access information about public services.

A World Bank report³³ includes details about the trailblazing work of an Indian NGO, Association for the Empowerment of Workers and Farmers (Mazdoor Kishan Shakti Sangathan, MKSS), in the state of Rajasthan. MKSS informs people about their rights to monitor public expenditures and helps them act on those rights. According to the report, the NGO organised public hearings in Rajasthan villages in 1994. The settings were informal, and respected community members presided over them. At the hearings, villagers were provided with fairly detailed accounts of official expenditure records, including supporting documents. The villagers then were invited to testify about apparent discrepancies between those records and their personal experiences. Labourers, suppliers, and contractors were asked to verify payments as reported by the documents. As a result of the hearings, corruption was exposed in a number of instances, and the purloined funds were recovered.

Despite this success, MKSS subsequently concluded that its advocacy model hinged on the availability and intervention of sympathetic officials, as there was no legal mandate for government personnel to share such records. The group accordingly launched a massive campaign for the introduction of a Right to Information Act, which was adopted as law in Rajasthan in 2000.³⁴ The impact of MKSS can be seen across Rajasthan: in particular, MKSS-sponsored public hearings have significantly constrained corruption in public works projects in rural parts of the state. In addition, the success of MKSS social audits has influenced the state government to introduce aspects of social auditing to local governance. In a radical

32. 2014.

33. 2004.

34. World Bank 2004, 11.

departure from previous practice, the state now mandates an annual social audit for each village, giving all village residents an opportunity to vote on a resolution verifying whether projects in their village have been successfully completed.³⁵

As already highlighted regarding education, De Renzio, Azeem, and Ramkumar³⁶ document the impact of community engagement and monitoring on various expenditures and services in Uganda. These community activities were conducted under the auspices of the Uganda Debt Network. The activities were not confined to the educational sector, however. The initiative more generally detected embezzlement of public funds and other resources and revealed instances of patients being forced to pay bribes in order to receive medical care.

In a report detailing social accountability initiatives in Asia, Sirker and Cosic³⁷ discuss the work of numerous organisations involved with budget transparency, public services improvement, and monitoring of auditing agencies. These include, in Indonesia, the Forum for Budget Transparency (Forum Indonesia untuk Transparansi Anggaran, or FITRA), a national NGO. FITRA's members include academics, development practitioners, NGO activists, journalists, and government officials who conduct budgetary analysis and/or advocacy work to increase people's awareness of their rights regarding government budgetary processes and the delivery of public services. The organisation disseminates findings through public events, forums, and media campaigns. FITRA has pressured local governments to adopt regulations that promote budget transparency, and it has stimulated public discussion of topics that were otherwise considered too technical in nature.

Most importantly for the purposes of this paper, FITRA has exposed cases of corruption, often through the news media. This has sometimes led to follow-up actions by government. Examples include the initiation of judicial proceedings for embezzlement against 20 local councillors in Kendari, Southeast Sulawesi Province. The NGO also exposed misuse of the National Election Commission's 2002–2004 budget and presented evidence against the governor of Southwest Sulawesi Province regarding corrupt activity linked to a fraudulent electricity project.

35. Ramkumar and Krafchik 2007.

36. 2006.

37. 2007.

India's Centre for Budget and Governance Accountability (CBGA), an organisation somewhat similar to FITRA, uses budgetary analysis to advocate for accountable governance and for measures to protect the rights of marginalised segments of society at the national level. By publishing reference guides and training manuals, CBGA also acts to 'demystify' the budgetary process and help ordinary people understand how budgets can be used to meet their needs.³⁸

Sirker and Cosic similarly report on the Sirajganj Local Governance Development Fund Project in Bangladesh, established by United Nations Capital Development Fund, the United Nations Development Programme, and the government of Bangladesh. The project sought to improve service delivery and governance at the local level through block grants to elected local councils, which constitute the lowest level of elected governance in the country. The grants supported small-scale development projects; they were renewed annually, contingent on participatory performance appraisals through public scorecards. The performance appraisals measured participation of women, community participation in budgeting, budget transparency, and efficient implementation of projects. Evaluations were undertaken at public meetings typically attended by 80 to 120 people and facilitated by the local council coordinator.

The authors argue that, as a result of the evaluation system, the local councils became more transparent and accountable to communities. The project developed a range of mechanisms that served to ensure the flow of information to communities, instilling a 'sense of community ownership'.³⁹ Even more important, they authors maintain that corruption was also reduced, because fiscal leakages (as reported by communities, a useful but admittedly not determinative evaluation mechanism) were reduced to 'as low as 5 to 10 percent of total expenditures, compared with 40 to 50 percent for schemes under annual development plans'.⁴⁰

Legal systems

In Liberia, the Community Justice Advisor (CJA) programme was launched in 2007 by the US-based Carter Center in partnership with a leading

38. Sirker and Cosic 2007.

39. Sirker and Cosic 2007, 32.

40. 33.

Liberian human rights group, the Catholic Justice and Peace Commission. Their work has had an important anti-corruption and pro-accountability impact. CJA paralegals successfully pressed a corrupt magistrate to return funds he had stolen from a plaintiff. They persuaded a prosecutor to arrest and secure the conviction of a dangerous criminal who had brutally attacked a woman. Another achievement was helping clients secure implementation of a 2003 law that granted inheritance rights to women in a context where male relatives and officials often ignore the law, to women's detriment.⁴¹

In Liberia, a Community Justice Advisor programme helps women protect their inheritance rights.

Sandefur and Siddiqi⁴² similarly report on the favourable results of a randomised controlled trial concerning CJA's work, which showed a reduction in bribery. The researchers found that the paralegal services reduced the direct cost of access to the formal legal system (including the cost of paying bribes to decision-makers in the system) and ameliorated its punitive character.

A study from Mexico and Colombia employed quantitative data, semi-structured interviews, and ethnographic evidence to assess whether Mexican and Colombian homicide and disappearance cases were more likely to progress through the corruption-prone criminal justice system if civil society advocacy and organising was brought to bear.⁴³ The study found that this was indeed the case: investigatory progress was more than twice as likely when advocacy was present than when it was absent. This would seem to indicate that, as with other aspects of legal services, civil society engagement can galvanise government responsiveness and accountability – in this instance, on the part of the police and prosecutorial services. Nevertheless, this finding comes with a caveat: even where civil society became involved, a lack of progress in terms of judicial proceedings was observed. In other words, moving these criminal and human rights cases through investigatory processes signifies progress, but the absence of impact

41. Chapman and Payne 2013.

42. 2015.

43. Gallagher 2017.

on the judicial front indicates that many or most perpetrators were not ultimately punished.

As part of a larger analysis of paralegal work and strategies, Maru⁴⁴ draws on his personal knowledge and organisational records to report instances of apparent anti-corruption impact by the NGO Timap for Justice in Sierra Leone. These include the following situations:

- One individual had been forced to pay unfair fines by a local justice official who had family ties to two persons with whom the individual had a civil dispute. A Timap paralegal's assistance persuaded the official to refund part of the fines and return the dispute to a local court for reconsideration.
- In an instance of police brutality against a woman, a Timap paralegal backed by the NGO's lawyer convinced a police officer to apologise and issue a payment to her in return for her dropping the complaint against the officer. In view of the violent police misconduct, this might not have been the ideal outcome. However, it was the woman's preference over pursuing a lengthy, uncertain, full-blown case against the officer.
- Employing an audit and a public hearing, a paralegal helped a community recover 3 million leones (approximately US\$1,132) from an umbrella youth organisation that had apparently misappropriated the funds.
- After local organisations contracted by an international NGO absconded with funds that the NGO had promised would be used to assist amputees in the wake of Sierra Leone's civil war, paralegals pressured the organisations involved to make good on their commitments. They subsequently did so, providing support for such projects as wells, sewing machines, and launching a cooperative.

A series of case studies by the International Development Law Organization⁴⁵ suggests that more than information is needed to constrain or overcome corruption in legal systems. For example, in Papua New Guinea, the People and Community Empowerment Foundation Melanesia, an NGO, conducted dispute resolution training and carried out other activities geared towards reforming corrupt customary justice systems. The IDLO report concluded that the training itself did not address or correct the power imbalances behind the corruption, and accordingly had limited impact.

44. 2006.

45. IDLO 2013.

However, the project proved ‘most successful where it transferred dispute resolution skills to women and created opportunities for them to become mediators. This enabled them to engage more effectively in internal dialogue processes and challenge the interpretation and application of discriminatory customary norms’.⁴⁶ Thus, the project was most effective where the training targeted women and where other elements of the project enabled women to become mediators, thus assuming positions of influence in dispute resolution.

In Morocco in 2006, four women’s rights NGOs carried out a grassroots legal education project in selected locales across the country while launching a ‘court accompanying programme,’ mainly for illiterate women in partner communities. Evaluations of the project found that educating women about their rights helped shift attitudes, but that the information dissemination was otherwise unproductive in helping them make use of often corrupt, hostile, and intimidating government bureaucracies. The NGOs’ assistance that went beyond simple information dissemination in dealing with those bureaucracies and obtaining those services was crucial to making such bureaucracies more responsive and accountable.

Democratic governance

Providing the public with information about corruption on the part of local politicians in Brazil decreased the re-election chances of reportedly corrupt officials.⁴⁷ The research drew on the results of a national anti-corruption programme involving 373 randomly selected municipalities with populations of 450,000 or less. The programme conducted anti-corruption audits for all the municipalities. For 205 of them, audit results were released (both online and via major media outlets) before the country’s 2004 elections, making them the treatment group. The results for the remaining 168 municipalities were released after the elections, making them the control group. For the intervention group, incumbent mayors were 7% less likely to be re-elected if their audit revealed corruption than if their audits did not find corrupt conduct. Perhaps even more significantly, there was an inverse relationship between the number of reported corrupt violations and the success of the incumbents’ re-election campaigns. In contrast, for the control group – that is, the municipalities for which the anti-corruption audit

46. IDLO 2013, 9.

47. Ferraz and Finan 2008.

results were not reported until after the elections – there was no difference in electoral success between reportedly corrupt and non-corrupt politicians.

The important role of civil society in legal empowerment

A plethora of research documents the value of civil society participation in strengthening justice and governance. For example, Moses and Soal⁴⁸ cite a range of studies testifying to the importance of support for justice-oriented and governance-oriented NGO activities:

An increasingly compelling body of evidence suggests that [...] reform efforts are most likely to be successful when [...] local stakeholders are at the forefront of defining governance challenges, developing and implementing solutions, and pursuing sustainable change; and those stakeholders have the flexibility to learn and adapt as they go, especially when working in complex political contexts (5).

Along the same lines, Stiles⁴⁹ highlights the constructive roles that civil society plays in bringing about positive democratic progress. The author asserts that governments should not be the sole initiators of reform and that grassroots communities should possess knowledge and tools they can use to bring about policy change.

Similarly, regarding South African access-to-information legislation and social and economic rights, Arko-Cobbah and Olivier⁵⁰ maintain that civil society groups play a crucial role in organising the populace and educating them about relevant laws and rights. They conclude that ‘organised communities can use their tools of association to work with the state to enhance their own development’.⁵¹

Civil society LE efforts can constrain corruption even in the absence of reliable state institutions.

48. 2017.

49. 1998.

50. 2016.

51. 167.

A key feature of LE anti-corruption activities carried out by NGOs is that they do not necessarily hinge on a prerequisite of strengthened state institutions. That is, the progress, success, and impact of such civil society efforts often do not depend on what is sometimes called the ‘supply side,’ meaning state programmes or reforms. While reforming and otherwise improving government justice institutions is desirable, many of the examples cited in this paper demonstrate that LE programmes can constrain corruption even in the absence of institutional reforms. Indeed, civil society LE efforts are often beneficial even if a supposed enabling environment of competent or dedicated government institutions is lacking. Such efforts can constrain corruption even in the absence of reliable state institutions. In fact, LE initiatives may help bring about somewhat more functional and accountable institutions.

Conclusion

Legal empowerment plays multifaceted positive roles in curbing corruption and otherwise advancing accountability. LE activities in general, and those directed against corruption in particular, can involve community organising, mobilising media, and politically savvy efforts to engage key officials and other influential individuals.

Legal empowerment principally affects petty rather than grand corruption.

This study has mainly documented LE’s impact on petty corruption. The research cited and analysed in this paper indicates that legal empowerment principally affects petty as opposed to grand corruption. This is not to suggest that it cannot help in constraining the latter, but the focus here has been far more on the former.

It is apparent that LE’s anti-corruption impact sometimes flows not from direct efforts to constrain corruption, but rather from broader programmes to increase partner populations’ knowledge about and access to governmental services, benefits, and budgets. Combating corruption may be an explicit (though not exclusive) goal of such programmes. It also may be an implicit

objective, or even a by-product of more general LE activities. As demonstrated in this paper, LE initiatives that help people know and act on their rights (regarding health services or land tenure, for instance) may uncover or battle the corrupt behaviour of government personnel.

While LE anti-corruption efforts often expose or frustrate government officials, they should by no means be seen as anti-state in nature. In fact, many such efforts are facilitated by identifying and working with honest or otherwise cooperative officials. Effective LE work, then, often operates in tandem with state agents to help bring justice to the people of a given polity. In fact, such cooperation can and does advance state goals regarding such priorities as fairer justice systems and – by helping people understand relevant rights and laws – improved service delivery. It does not just identify institutional weaknesses, but can and does bolster institutional effectiveness.

Recommendations

National and international efforts to constrain corruption should take account of the many ways in which legal empowerment can contribute to and even be crucial for such efforts. With this in mind, it is recommended that donors should:

Support LE work, particularly by civil society. NGOs and other civil society actors merit political and financial support for their LE anti-corruption initiatives. Government LE programmes and joint government–civil society LE initiatives with anti-corruption elements should also be supported.

Establish LE endowment funds and provide sustained support for LE. To help ensure sustainable, independent anti-corruption efforts by civil society, donors and other funding sources could establish politically independent endowments. New international and national foundations that draw on such endowments could provide sustained support for anti-corruption operations. Above and beyond this ‘foundation approach,’ it is advisable for governments, aid agencies, and other parties to view civil society anti-corruption programmes as public goods that necessitate ongoing infusions of funds, since even in affluent societies they are not capable of being self-sustaining.

Train and encourage government personnel to welcome civil society LE work. Donors can support governments to proactively train their personnel to embrace rather than resist cooperation with the populations they serve and the civil society elements working with such populations to curb corruption, and to reach out to civil society forces to facilitate ongoing cooperation.

Consider the potential for complementary media support. The use of media in general and investigative journalism in particular could prove to be extremely fruitful, complementary arenas for combating corruption. Publicity about legal empowerment is often an important factor in the success of such work. The independent variables of media/investigative reporting merit considerable scrutiny as effective strategies for curbing corruption.

Support a robust research agenda. Finally, funding agencies could support both quantitative and qualitative studies to document the progress, impact, and lessons flowing from legal empowerment efforts to constrain corruption.

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