

Land-Related Legal Aid in Community Driven Development Projects

Lessons from Andhra Pradesh

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Legal aid that focuses on land rights can extend the impacts of community-driven development projects and create a foundation for improving the livelihoods of poor rural households, particularly in countries like India where access to land and secure land tenure are critical determinants of livelihoods. A well designed legal aid program identifies situations where rural community members are unable to realize the benefits of secure land rights. Legal aid can diagnose the causes of the gaps between formal law and rural realities, whether they are the result of poorly conceived policies, weaknesses in the laws, lack of information about rights, inadequate administrative systems or capacity, or implementation gaps. Using a variety of methods, legal aid can strengthen weaknesses and close gaps by building awareness of legal rights among the poor and giving legal (and ultimately social) recognition to previously unrealized land rights.

This note reviews the role legal aid can play as a catalyst to empower and strengthen the livelihoods of the poor in a World Bank-funded project in the Indian state of Andhra Pradesh (AP), the AP Rural Poverty Reduction Project. This note shows how land-related legal aid activities can be implemented to support community-driven development project objectives. Initial evidence on the positive impacts of legal aid

on economic and social advancement of the project's target population in AP suggests that attention to the land rights of the poor can significantly enhance the impact of community-driven development projects in India. The note discusses how projects being implemented in other states might benefit from adoption of a land-related legal aid component.

RELEVANCE OF LAND RIGHTS AND LEGAL AID TO ECONOMIC GROWTH AND POVERTY REDUCTION

Land rights play a critical role in defining the economic opportunities, wellbeing, and future of the world's poorest people. The majority of rural households depend on agriculture for their livelihoods. Those who do not have access to land or whose land rights are insecure are unable to make full (or sometimes any) use of this multi-faceted asset to meet the needs of their families and protect against shocks. Inevitably, they are among the poorest and most marginalized sections of the rural population.

The connection between poverty and lack of land rights is starkest in rural India, where 60 million households (330 million people) own less than a tenth of an acre of land, and landlessness is a better predictor of poverty than either illiteracy or caste. The majority of these households struggle to survive and, without land, have limited livelihood opportunities. Obtaining secure land rights for housing and/or cultivation for these rural families can expand and improve their livelihood opportunities.

Most Indian states have at least some legal and policy provisions concerning land that are favorable for poor households, although such households are often unaware of these provisions and their rights. Land distribution programs have often failed to produce promised results because land rights are not recorded or third parties contest the rights of beneficiaries. Legal aid can identify the reasons why intended beneficiaries and other members of a targeted population are not realizing the benefits of land rights and address problems identified by facilitating case resolution with surveying support, case investigation, and legal analysis.



PROJECT CONTEXT FOR LEGAL AID COMPONENT

In AP, legal aid targeting land rights is an activity within the state's World-Bank financed poverty reduction project. The Project uses institution building and the creation and enhancement of livelihood opportunities to empower rural poor people. In managing the Project, staff operate through women's community-based organizations, which have self-help groups as their foundation and are federated at village, sub-district, and district levels—a framework that also supports the legal aid activities (see chart).

The Project's initial attempt to improve livelihoods through institution-building and income-generating activities was not a viable strategy for most of the poorest who lacked the land base for entrepreneurial activities. The Project added a land component that includes legal aid activities designed to increase land access and tenure security for the poor.

Shortly after the land component was initiated, project staff recognized that the land rights of poor households were often the subject of cases pending for years before the state's Revenue Department, which has administrative and adjudicative responsibility for land matters. Project staff reviewed the backlog of cases in selected areas and identified those involving the Project's target population of rural poor. Project staff, law students, and the Revenue Department worked together to determine appropriate resolutions. This initial case work identified two areas where the Project could usefully expand: (1) through use of the community based organization structure to identify and resolve land issues that never reach the Revenue Court system; and (2) by providing surveying for unresolved land issues of the poor.

The Project developed a framework for legal aid activities based on the following elements: employment and training of local youth as paralegals and community surveyors, management of legal aid staff by the community based organizations, and establishment of district land centers and community partnerships.

Paralegals. The Project hires local, educated youth from disadvantaged families as paralegals, training them on land laws and records, Revenue Department procedures, the community-based development structure, and village

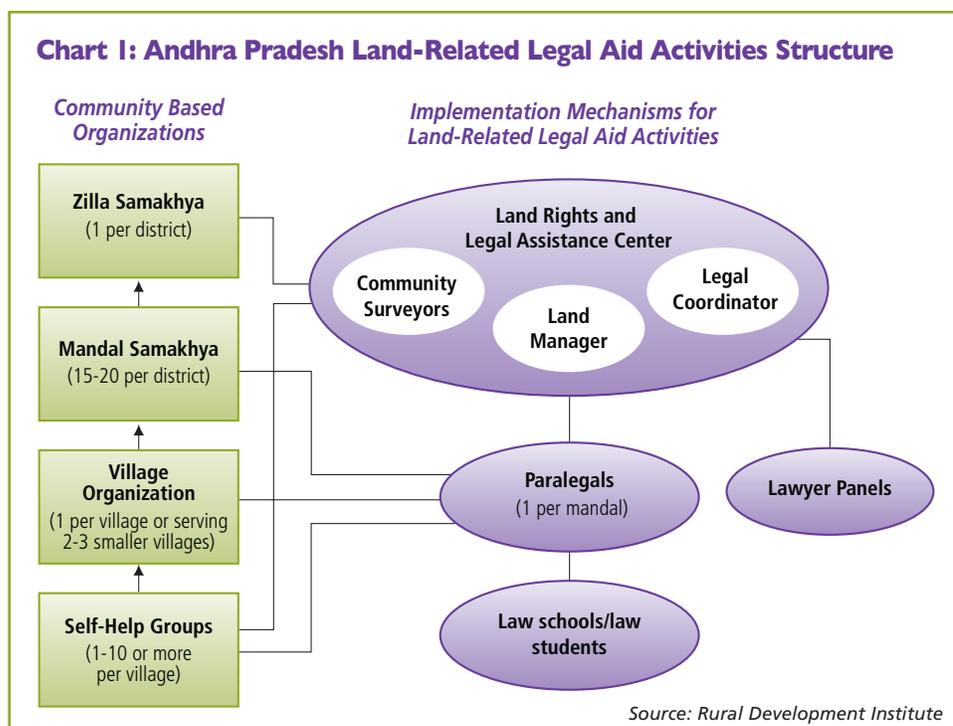
inventories (see box). Paralegals build awareness of land issues within self-help groups, identify land issues impacting group members, and help members of the community-based organizations bring the issues before the Revenue Department for resolution. Paralegals support the Revenue Department by fact-finding, obtaining surveying assistance, and arranging for legal opinions.

Community surveyors. Like many states, Andhra Pradesh has a limited number of trained surveyors and a multitude of land issues that require surveying as a precondition to resolution. The Project trains local youth as community surveyors. The community surveyors work in cooperation with local government surveyors to increase the state's ability to survey land, especially in cases where case resolution and receipt of patta has been pending because of the lack of surveys. Community surveyors complete a survey course, receive training on land laws, records and village inventories, and complete an apprenticeship with a government surveyor.

The legal aid activities also include partnerships with law schools, which conduct clinical programs for law students and panels of lawyers to support legal aid activities. The framework is housed within district-level Land Rights and Legal Assistance Centers, which provide space for staff, access to land records and research, and assist the Revenue Department.

Scale and Costs of Legal Aid Activity. As of October 2007, the Project extended legal aid activities state-wide, facilitated the hiring and training of 401 paralegals, has 400 community surveyors under apprenticeship, and hired and trained 36 managers.

Chart 1: Andhra Pradesh Land-Related Legal Aid Activities Structure



Source: Rural Development Institute

Box I. Raising Land Rights Awareness Through Village Inventories

As part of their training, paralegals and community surveyors conduct a village inventory to identify gaps between land records and possession of land. The inventory team obtains copies of maps indicating areas of government land, visits the land to determine who is in possession, compares the findings with the land records, creates a list of discrepancies for further inquiry, and notes a plan for addressing the issues, including surveying needs. The process provides training for the paralegals and community surveyors on land records, maps, land laws, interview techniques, and options for resolution of issues. The process also educates the village about land issues and options for resolving land problems.

Source: Robin Nielsen and Tim Hanstad

The legal aid activity comprises much of the Project budget assigned to non-purchase activities, which totaled US\$ 2.38-2.67 million in FY2005-06. Staff dedicated to legal aid receive salaries between US\$ 63 to 625/month. The annual cost of labor dedicated to legal aid is US\$ 979,500. State and district level project staff, who receive a total of US\$ 139,800 annually, also spend some percentage of time on legal aid activities.

EARLY ACHIEVEMENTS

Despite being in early stages of the legal aid activities, as of November 2007 the legal aid staff identified land issues impacting 78,873 poor people and 110,000 acres of land. The issues addressed include matters relating to issuance of pattadar passbooks (which evidence land ownership, use, and encumbrances), boundaries, and possession of land. Approximately 27 percent of the issues have been resolved.

In addition to the cases resolved, the legal aid activities provided foundation for legal empowerment within the communities served. Legal aid staff trained approximately 500 self-help group members on land rights and drafted handbooks on land issues. Female members of self-help groups report confidence discussing their legal rights and applying to officials to enforce their rights. Legal aid staff also helped the Revenue Department identify land potentially available for poor households and policy decisions that would benefit those households. Finally, training large numbers of youth as paralegals and community surveyors provides job skills to rural youth and grounds the knowledge regarding land rights and the methods of exercising those rights in the community.

FUTURE OF LEGAL AID ACTIVITIES

State government officials and community-based organization leaders note that legal aid activities provide positive benefits at low costs and that there is still great unmet demand of such services from the target group. Monitoring and evaluation is required to confirm these perceptions. Estimates regarding the future level of land-related legal aid services needed must await that evaluation, but several observations can be made.

The case study evidence collected suggests that the project is effective in reaching its goals. Four factors are noteworthy. First, legal aid staff is uncovering thousands of land rights problems faced by poor households that would go unnoticed in an examination of the land or court records. Identifying and resolving these issues in a participatory fashion creates the basis for empowerment. Second, the flexible structure can be adapted for different settings or permitted to evolve naturally as needs change. For example, community surveyors in Andhra Pradesh will be less necessary once the backlog of cases requiring surveys is cleared. In other states, needs for community surveyors may differ. Third, preliminary examples of costs are encouraging. In a pilot focusing on unregistered private transactions in one district, the costs for identifying and formalizing the land rights appear to be about \$1.25 per acre. Finally, the state government and the community-based organizations appear to support the legal aid efforts, and the future possibility of absorbing paralegals and possibly community surveyors within a line department or the community-based organization structure is evident. The Project assumes that for legal aid to remain focused on the poorest, the activities will always require some ongoing support from the government, although the community-based organizations and clients themselves may be able to contribute a portion of the costs.



At least three factors contribute to the success of the design: (1) the project staff's prior experience as Revenue officers gives them an advantage in identifying areas with land issues adversely affecting the poor and local officials interested in resolving the issues; (2) a strong community-based organization structure provides a participatory framework in which land issues can be addressed; and (3) the community surveyors offer the Revenue Department a concrete service and basis for cooperative relationship with the Project.

ADOPTION OF LEGAL AID ACTIVITY

Project staff considering legal aid activities will want to evaluate the potential project environment and perform a cost-benefit analysis.

Evaluation of Environment. The following are characteristics of a favorable environment for a land-related legal aid component:

- ✓ **Significant number of disadvantaged people adversely impacted by one or more types of land issues.** Areas with high numbers of landless people or unproductive land are often areas with significant numbers of unresolved land issues.
- ✓ **Supportive legal framework.** Legal aid will be most effective in areas where the laws and legal procedures can be used to favor the poor and marginalized.
- ✓ **Functioning land administration and dispute resolution systems.** Legal aid will be most effective in areas with a relatively accessible and reliable system of land administration, dedicated land officials, and specialized courts.

Working with Imperfect Circumstances

Even if systems are functioning imperfectly and the legal framework is not wholly supportive, legal aid activities can be effective. In challenging circumstances, project staff should evaluate the types of land issues and local needs and initially select one issue or a small number of issues that have the best chance of success.

- ✓ **Working relationship between project staff and government.** The ability of legal aid to resolve the land problems of the poor depends on the working relationship between legal aid providers and Revenue Department functionaries.

- ✓ **Functioning CBOs or NGOs.** The success of legal aid activities depends on the ability to connect with the local population through community-based organizations and NGOs in a manner designed to identify and prioritize or sequence land issues.

Consideration of Performance Targets. Each area evaluated for legal aid activities will be unique and categories for performance targets and the targets will vary. Categories for possible performance targets include: numbers of land issues identified; disputes resolved; acreage involved in resolved disputes; costs per acre or per case resolved; number of acres surveyed; number of plots demarcated; number of beneficiaries put in possession; number of land titles issued and registered; and number of land record entries corrected.

Cost-Benefit Analysis Framework. A simple cost-benefit analysis will consider the number of potential beneficiaries of legal aid activities, the extent of land involved, the anticipated impact of legal aid on the value of the land to the beneficiaries, other attendant benefits (such as strengthening institutions and legal empowerment), and the costs of legal aid staff.

Legal aid activities targeting land rights strengthen community-based organization structures while also serving as mechanisms through which poor households receive secure and enforceable rights to land. In Andhra Pradesh, legal aid activities are fulfilling the promise of land reforms by providing the poorest members of rural communities with access to land and secure land tenure. In addition, legal aid activities are empowering women to assert their legal rights and developing relationships between communities and local governments that form the conduits and foundation for political action and social change. A more valuable addition to a project is difficult to imagine.

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