

Working Paper 277

**Bringing Community-learnt Knowledge
into the Policy Debate**

The Case of Legal Aid Centres

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Executive Summary

This paper takes as its starting point the observation that experiential knowledge tends to be dismissed in policy discussions. This means information and knowledge acquired by individuals through personal experience or gathered by civil society organisations (CSOs) through working in poor areas where staff can see firsthand the daily lives of poor people. Moreover, the role of elites in policy processes – especially in pro-poor policy processes – is an area that is in need of more investigation. Here, we wish to combine these two issues and look at the potentially pivotal role that elites can play as conduits of experiential knowledge into policy processes, communicating community-learned knowledge of the situation of the poor into national-level pro-poor policies.

This paper focuses on lawyers who have shown an interest in the problems of poor people by working as legal aid lawyers in poor communities. The key question we seek to address is: How and under what circumstances can elites bring experiential knowledge about the situation of the poor to bear on policy debates? Two cases are examined and compared: the Legal Resources Centre (LRC) in South Africa and the Uganda Association of Women Lawyers (FIDA U) in Uganda.

Before presenting the case study findings, the paper reviews the relevant bodies of literature on policy processes, the role of national elites in poverty reduction and policy processes, and legal aid centres and their influence on policy processes and content. Throughout the literature review we have emphasised issues of legal empowerment and how such empowerment might support poverty reduction.

In the next section, the situation, aims, work and policy-influencing experience of the case study organisations are presented. It seems that there is a difference in the ability of these two organisations to contact policymakers and influence national policy. A comparative analysis highlights factors which might contribute to the difference.

In conclusion, three key sets of lessons are drawn out of the comparative case studies with regard to the research question highlighted above. These are:

- The importance of links:
 - Network: Invest in staff who can facilitate networking activities. Use board members actively in facilitating links with prominent actors.
 - Events: Invest in a series of events that bring people together, such as launches, dinners or site tours.
 - Cooperation: Invest in cooperation, even though this demands time and effort. Forge and use links with other institutions, such as government departments and the police.
 - Coalitions: Invest in making policy-influencing activities visible and strong. Build coalitions with other CSOs who wish to influence the same policies.
- People use:
 - Donors: Actively invest in donor engagement through invitations, fundraising dinners, reporting, etc.
 - Volunteers: Use volunteers to supplement the work of paid staff, if possible.
 - Board and committee members: Create several boards (advisory or otherwise) and committees tied to the organisation. These forge links to a large number of people who will have an interest in promoting the organisation.
- Strategic planning:
 - Aims: Include policy engagement and influence as a key aim of the organisation, rather than viewing it as an optional bonus.
 - Budget: Set aside resources in the budget for ‘policy projects’ (i.e. projects specifically designed to engage with and influence a policy).
 - Staff development: Train staff in the skills they need to engage with policy-level activities, such as advocacy and networking.

1 Introduction

1.1 Background

This paper takes as its starting point the observation that experiential knowledge tends to be dismissed in policy discussions. This means information and knowledge acquired by individuals through personal experience or gathered by civil society organisations (CSOs) through working in poor areas where staff can see firsthand the daily lives of poor people. Moreover, this accumulation of knowledge is linked to the potentially pivotal role that elites can play as conduits of experiential knowledge, communicating community-learned knowledge of the situation of the poor into national-level pro-poor policies. This paper focuses on lawyers who have shown an interest in the problems of poor people by working as legal aid lawyers in poor communities. Two cases are examined and compared.¹

To engage with this topic, we draw on a number of existing bodies of literature but at the same time aim to take them forward in a new way. There is much written on the policy process: how policies are made; the importance of evidence-based policymaking; how knowledge and research can inform and inspire policy debates; and, most significantly, the ascendancy of participatory policymaking based on the idea that involving the poor directly will make poverty reduction policies more effective. There have also been a number of studies looking at the role of elites in poverty reduction and their perceptions of poverty and the poor.² Similarly, the importance of the rule of law and, more recently, legal empowerment in poverty reduction has generated numerous studies. This literature is examined in Section 2 below.

It has become apparent from this literature that one form of knowledge tends to be dismissed in policy discussions, namely ‘experiential knowledge’,³ despite it seemingly being an obvious part of the evidence needed to make policy. Community-based organisations, which rely on this form of knowledge, have found it difficult to access the policy arena (perhaps because they tend to be more informal, have less advocacy experience and can be crowded out from the policy table by policymakers, donors and larger non-governmental organisations). With this in mind, is there a role for elites to act as conduits for communities to feed their experiences into the policy process? This paper examines one elite group – that of lawyers who seem to have shown an interest in the problems facing poor people by working in legal aid in poor communities. We will explore the innovative ways these elites have used the experiential knowledge acquired through their work to influence both legal empowerment initiatives and, more generally, poverty reduction policies.

1.2 Key question

This paper centres on elites acting as conduits for communities by feeding their experiences into policy processes. In particular, we would like to examine how elites might communicate community-learned knowledge, or experiential knowledge that they have gained through their work and through interaction with poor or marginalised communities. In short, we wish to examine the question: *How and under what circumstances can elites bring experiential knowledge about the situation of the poor to bear on policy debates?*

We focus on legal aid centres, thus specifically looking at the role that one particular elite group, lawyers, can play in bridging the gap between the knowledge of poor or marginalised communities and national poverty reduction policy processes.

¹ This paper is an extended version of the report arising from a project carried out under ODI’s CSPP.

² In this paper, the term ‘elite’ is used to refer to those who are better educated, better connected and better resourced among the local citizenry. In this context we are specifically referring to professionals who routinely work with groups of the poor.

³ Information and knowledge acquired by individuals through personal experience or gathered by staff of CSOs through experience of working in poor areas and witnessing, at firsthand, the daily lives of poor people.

1.3 Methodology: case study approach

In order to address this question, we have chosen a comparative case study approach. This approach allows a more in-depth examination of particular case(s) than would be possible from a survey, and enables a detailed analysis of context.⁴ The two cases we examine and compare are of two legal aid centres: the Association of Women Lawyers (FIDA U) in Uganda and the Legal Resources Centre (LRC) in South Africa.

The LRC is an independent, client-based, non-profit public interest law centre which aims to use law as an instrument of justice. It views its mandate as working for the development of a fully democratic society based on the principle of substantive equality, by providing legal services for the vulnerable and marginalised, including the poor, homeless and landless people and communities of South Africa who suffer discrimination by reason of race, class, gender, disability or social, economic and historical circumstances.

The standards and principles it commits to include are:

- Building respect for the rule of law and constitutional democracy;
- Enabling the vulnerable and marginalised to assert and develop their rights;
- Contributing to the development of a human rights jurisprudence;
- Contributing to the social and economic transformation of society.

To achieve its aims, the LRC seeks creative and effective solutions by using a range of strategies, including impact litigation, law reform, participation in partnerships and development processes, education and networking within and outside South Africa.⁵

FIDA (U) was established in 1974, with the goal of improving access to justice and uplifting the status of women and children, along with promoting the observance of their rights and responsibilities. FIDA (U) is a non-governmental, non-partisan and non-profit-making woman's human rights membership organisation, which has built its reputation on its uncompromising commitment to providing legal services for women and children whose rights are abused, denied and neglected. FIDA (U) is an indigenous organisation of women lawyers and the first of its kind to provide legal aid services. In Uganda, the association has 244 members and 50 full-time staff.

FIDA has three main programmes: legal aid service provision; research and advocacy; and information, education and documentation. The legal aid service provision includes case handling (over 9,000 new cases every year), child support programmes, community support programmes and legal aid to people living with HIV/AIDS. Research and advocacy focuses on Uganda's legal and regulatory framework to ensure it adequately promotes and supports women's rights.⁶

In comparing these two organisations we draw on the literature analysing research-policy linkages to examine what influences the uptake of experiential knowledge in policy processes. Both LRC and FIDA (U) have seen an earlier draft of this paper and been invited to comment.

⁴ From www.lrc.org.za. Findings presented in this paper are, however, based on only a limited number of interviews and support documentation provided by the organisations under study. The depth of information and analysis must be recognised as reflecting what is contained in these sources. This initial research activity would benefit considerably from further activities enabling more detailed analysis from the perspective not only of the organisation but also of their clients and the policymakers whom they aspire to influence.

⁵ Our information on LRC comes from previous contact with the organisation, the website (www.lrc.org.za), a review of their documents and a telephone interview with Barrister Ranjit J Purshotam.

⁶ Our understanding of FIDA (U) is based on telephone and email correspondence with the Executive Director, Jane Musoke, supported by information on the FIDA (U) website (www.fidauganda.or.ug) and a review of their documents.

1.4 Outline

In this paper we first briefly present literature on policy processes (Section 2.1), on the role of national elites in poverty reduction and policy processes (Section 2.2), and on legal aid centres and their influence in policy processes and content (Section 2.3). Throughout this review we emphasise legal empowerment and the role it might play in poverty reduction.

In the next section (Section 3) we present the situation, aims, work and policy-influencing experience of the case study organisations: FIDA (U) in Section 3.1 and LRC in Section 3.2. We then present a comparative analysis of the two organisations, considering which factors might contribute to the perceived difference in their ability to contact policymakers and influence national policy (Section 3.3).

In the conclusion (Section 4), we return to the key question posed in this paper, namely: *How and under what circumstances can elites bring experiential knowledge about the situation of the poor to bear on policy debates?* and present the lessons learnt from the preceding analysis.

2 Literature Review

2.1 Policy processes

Often, the link between knowledge and policy, or evidence and practice, is viewed as a linear process, whereby a set of research findings or lessons shift from the ‘research sphere’ over to the ‘policy sphere’, which then has some impact on policymakers’ decisions and practical programmes. The reality tends to be much more dynamic and complex, with two-way processes among research, policy and practice, shaped by multiple relations and reservoirs of knowledge. The traditional question ‘How can research be transported from the research to the policy sphere?’ has been replaced by a more complex question: ‘Why are some of the ideas that circulate in the research/policy networks picked up and acted on, whereas others are ignored and disappear?’

It is important to understand policy processes as fluid and malleable (Brock et al, 2001: 2) or even ‘a chaos of purposes and accidents’ (Clay and Schaffer, 1984: 192, quoted in Sutton, 1999: 1). In the context of poverty reduction policy, while there are opportunities for different actors to engage in poverty policy processes, the formulation of policies is characterised by a ‘complex interplay of power, knowledge and agency’ (Brock et al, 2001: 3). This makes it very difficult to understand how knowledge is fed into the process, who adopts that knowledge and what change it produces. Bird et al (2004) identify a number of ‘fracture points’ – or areas of weakness and failure in the policy process.

There are an increasing number of spaces for ‘invited participation’ (in PPAs – Participatory Poverty Assessments, PRSPs – Poverty Reduction Strategy Papers, etc.) where CSOs⁷ have had an opportunity to participate in the policy process. The PRSP process offers an excellent opportunity for CSOs to engage with the policy process. For many CSOs in the first generation of PRSP consultations, this has been their first experience of advocacy work on policy issues and the process itself has contributed to strengthening capacities. However, this potential has often not been fulfilled; many CSOs feel that their views and recommendations have not been listened to or integrated into final policy documents. While there are some examples of CSOs impacting policy choices, there is an overriding sense that there has not been much of a link between the consultations and the final documents and, furthermore, that governments did not invite discussion on many important issues. The reasons for this are many but include the political nature of policy processes, the influence of donors and international financial institutions (IFIs) in the PRSP process and the limited capacity in many CSOs to conduct rigorous analysis on highly technical issues (Curran, 2005: 1).

There may also be times when policy change comes from below rather than from above (Houtzager, 1999 in Brock et al, 2001: 2) and for the policy space to be opened up by new actors who propose alternatives to current orthodoxies and reframe the policy debate (Brock et al, 2001: 7). This has been an important part of CSO movements – mediating between ‘public’ and ‘private’ interests (Pollard and Court, 2005). CSOs can be involved in a number of ways in the various stages of the policy process: agenda setting, formulation, implementation and monitoring and evaluation (see Box 1).

Box 1: Summary of relevant evidence supporting policy and institutional reform

- Journalists against AIDS in Nigeria highlighted an urgent need to address issues around the disease. Their work was successful in raising awareness of the problem among both policymakers and the general public because of the way the group combined personal testimonies with macro-level analysis.
- The Muslim Women’s Council in Addis Ababa raised the issue of women’s rights in Ethiopia by using its meticulous community-based research matched with detailed engagement with the text of the Qu’ran. This provided the Council with legitimacy and enabled them to raise issues connected to women’s rights with families, communities and Sharia courts.

Source: Pollard and Court (2005: 13).

⁷ CSO is a widely used but contested term. We do not engage with that debate here but use the term simply to refer to NGOs working at both national and local levels.

There are a number of factors that can contribute to policy change: successful strategising by networks of actors who propose alternatives; ‘discourse coalitions’ within policy arenas and of *other* actors from outside existing policy networks; and the negotiation and capture of areas of consensus. These, however, are all incremental processes of change (Brock et al, 2001: 3). In terms of successful CSO contribution to policy change, Pollard and Court (2005) argue that creating and using credible evidence is crucial in influencing policy discourses.

A wide range of interrelated factors determines whether research-based and other forms of evidence are likely to be adopted by policymakers and practitioners.⁸ Four broad and overlapping areas are identified:

1. Political context: politics and institutions: Research and policy links are dramatically shaped by the political context.⁹ The policy process and the production of research are in themselves political processes from start to finish. Key influencing factors include the extent of civil and political freedoms in a country; political contestation, institutional pressures and vested interests; and the attitudes and incentives among officials, their room for manoeuvre, local history and power relations. In some cases the political strategies and power relations are obvious, and are tied to specific institutional pressures. For instance, ideas circulating may be discarded by the majority of staff in an organisation if those ideas elicit disapproval from the leadership.

2. Evidence: credibility and communication: The findings of RAPID’s work suggest that the quality of the research is important for policy uptake.¹⁰ Policy influence is affected by topical relevance and, as importantly, the operational usefulness of an idea; it helps if a new approach has been piloted and the document can clearly demonstrate the value of a new option. A critical issue affecting uptake is whether research has provided a solution to a problem. The other key set of issues here concerns communication. The sources and conveyors of evidence and the way new messages are packaged (especially if they are couched in familiar terms) and targeted can all make a big difference. For example, marketing is based on the insight that people’s reactions to a new product or idea are often determined by the packaging rather than the content. The key message is that communication is a very demanding process and that it is best to take an interactive approach. Continuous interaction leads to greater chances of successful communication than from a simple or linear approach.

3. Links: influence and legitimacy: This relates to the importance of links with communities, networks and intermediaries (for example, media and campaigning groups) in affecting policy change. Some of the current literature focuses explicitly on various types of networks, such as policy communities, epistemic communities and advocacy coalitions. While systematic understanding remains limited, issues of trust, legitimacy, openness and the formalisation of networks have emerged as important. Existing theory stresses the role of translators and communicators. It seems that there is often an under-appreciation of the extent and ways that intermediary organisations and networks impact on formal policy guidance documents, which in turn influence officials.

4. External influences: While many questions remain, key issues here include the impact of international politics and processes, as well as the impact of general donor policies and specific research-funding instruments. Broad incentives, such as EU Accession or the PRSP process, can have a substantial impact on the demand for research by policymakers. Trends towards democratisation and liberalisation and donor support for civil society are also having an impact. Much of the research on development issues is undertaken by Northern researchers, raising concerns of relevance and beneficiaries’ access to the findings. A substantial amount of research in the poorest countries is funded by international donors, which also raises a range of issues around ownership and legitimacy. Other issues are whose priorities are reflected in research agendas and whether the appropriate balance is made between international and local staff when commissioning consultancy teams. As policy processes become increasingly global, external influences will increase in importance.

⁸ For a synthesis of the main conclusions of recent ODI work in this area, see the RAPID Briefing Paper at www.odi.org.uk/RAPID/Publications/Documents/rapid_bp1_web.pdf.

⁹ The term ‘research’ is used widely here to include knowledge creation and evidence gathering.

¹⁰ See www.odi.org.uk/rapid/publications for a number of publications.

There appears to be a hierarchy or ladder of knowledge within policy processes. Pollard and Court (2005: 14) and McGee et al (2002) both raise the point that academic research/knowledge is privileged over experiential knowledge. However, experiences from the PRSP processes show that the experiential evidence was an important complement to the technical knowledge of government and donor officials, particularly in assessing the extent and character of poverty in countries (McGee et al, 2002). Many CSOs saw the PRSP consultation process as an opportunity to learn from other sources of information, including from the research-based evidence produced by larger non-governmental organisations and think tanks. This allowed them to put their individual experience into a broader context.

Outside the formal policy processes, there are other arenas for people to meet and mobilise around alternative policy discourses (social movements are an obvious example). These can provide poor people with an opportunity to resist and challenge their conditions and create alternatives (Berberton et al, 1998 in Brock et al, 2001: 23).

2.2 The role of national elites in poverty reduction/policy processes

According to Hossain and Moore (1999: 107), 'elite' is defined in terms of power: the capacity to influence events and discourse. Conceptually, an elite is a small number of people who control the key material, symbolic and political resources within a country. Elites can be identified as the people who occupy commanding positions within the institutions that are most salient to national political influence and policymaking, including the legal system (Reis and Moore, 2005: 2).

Elites are recognised as an important group in poverty reduction policies because of the power they hold – but what makes elites likely to engage constructively in poverty reduction activities? Some studies argue that it is the more educated members of communities that are actively involved in collective action. A study by Oliver (1984) on collective action in Detroit, USA found that the active members of the community are more educated and tend to have closer ties in the community than 'inactive' members. Studies on 'New Social Movements' also show that people are more likely to cooperate – and in more areas – when more educated.¹¹ Offe (1987) finds that people with a degree are 10 times more likely to be members of Greenpeace than those without one. He concludes that the well educated middle classes are more susceptible to the universalist messages of such movements (Gillinson, 2004: 11).

Bird et al (2004) argue that in some cases elites may speak on behalf of marginalised and vulnerable groups, for example NGO lobbies, parliamentarians or other elected representatives, donors and development researchers. However, the poor and marginalised are generally in asymmetric relationships with the powerful, and are unable to control the content or process of their engagement. This can lead to their interests being misrepresented and their engagement being manipulated to benefit the interlocutor (Bird et al, 2004: 13). This is a potential danger where lawyers represent the interests of poor communities in policy discussions.

Abram de Swaan argues that a precondition for state action is the development of 'social consciousness' among national elites. He notes that members of the elite possess social consciousness when: they are aware of the interdependence among social groups in society and the external effects of poverty on the elites (either threats or opportunities); they believe that they have some responsibility for the poor; and they believe that feasible and efficacious means to improve the lot of the poor exist or might be created (in Reis and Moore, 2005: 5).

Another perspective on the 'conscientisation' of the elites is a study by Fischer (1993, in Sutton, 1999: 27) who shows the evolution of US think-tanks from 'objective experts' to politicised elites. Studying organisations such as the Brookings Institution, the Heritage Foundation and the American Enterprise Institute for Public Policy research, Fischer shows that these elite think tanks initially acted as objective experts who offered advice to government policymakers but between the 1960s and 1980s there was a move towards subjectivity, a 'politicization of elite think tanks and their experts'. These 'experts' were

¹¹ For more on why we cooperate, see Gillinson (2004).

able to raise political consciousness problems – such as poverty – that otherwise would have been accorded little attention by either politicians or the public (Sutton, 1999: 27).

Elites may also engage in poverty reduction activities through fear or opportunity (Moore and Hossain, 2005: 201). They may fear that they will be worse off if they fail to do something about poverty, or they may perceive that they will benefit personally from poverty reduction.

Hossain and Moore, in their case study of Bangladesh, highlight the factors that are likely to make elites act. Elites in Bangladesh are likely to support anti-poverty activities because: the country is relatively homogenous and has a relatively equal distribution of income; shared suffering (floods etc.) have created a sense of national identity grounding poverty reduction activities in a sense of national solidarity; poverty is extreme and overt; and an established and effectual NGO sector provides both a stimulus and a model for public action (Hossain and Moore, 1999: 106-7).

More generally, Moore and Hossain set out the factors that make certain poverty reduction policies more likely to capture the imagination of the elites: i) specific arguments linking pro-poor policies to a widely accepted (human resource-based) conception of development; ii) general assertions about the incompatibility of poverty with the achievement of an urgent national goal (e.g. linking poverty reduction with ‘national unity’ in Indonesia); iii) appeals, explicit or implicit, to a sense of rivalry with other similar countries, especially neighbouring countries, and to the sense of national pride; iv) narratives with ‘moral’ as well as instrumental content; v) a plausible account of how particular objectives might be achieved through public action (Moore and Hossain, 2005: 206-7). Interestingly, a common theme among many elites is that education is the solution to poverty (see Moore and Hossain, 2005: 204-5 for reasons why).

However, Hossain and Moore also raise the point that elites can have skewed or misleading perceptions of ‘the poor’.¹² Many elites know very little about the lives of poor people. Elites in Bangladesh bestow poor people with high moral values; the poor are thought to be less greedy than the non-poor (Hossain and Moore, 1999: 109). This example is different to many other countries where elites have tended to divide the poor into ‘deserving’ and ‘non-deserving’ depending on their behaviour and lifestyle. This idea was highlighted in the work by John Toye on anti-poverty discourse in contemporary international development agencies which he related to the history of anti-poverty policy in Britain. Up until at least the mid-20th century, British policy was shaped in part by moral distinctions of the relative merit and worthiness among the poor. Part of the art of obtaining political support for the expansion of public welfare had been to redefine more poor people as *deserving* on grounds that would resonate with, and be acceptable to, the more comfortable classes (in Reis and Moore, 2005: 4).

2.3 Legal aid centres and their influence in policy processes/content

There is much research on the importance of the rule of law and access to justice in ameliorating poverty. ‘Lawlessness’ is a particular problem for poor people. ‘Lawlessness’ can contribute to poverty in a number of ways: the justice system fails to fulfil its stated objectives – of protecting people from theft, violence and official abuse – or to enforce legitimate entitlements and legal rights (e.g. to wages or inheritance); the prevalence of police extortion, unjust imprisonment and courtroom bribery may inflict further costs: the justice system may seem like ‘organised theft’; living in a state of lawlessness undermines confidence, deters investment and contributes to costly risk-avoiding behaviour within a culture of fear; vulnerable households may use scarce disposable income for self-protection (e.g. bribes and weapons) to shield themselves from both state and private plundering (ID21, 2002a).

Moreover, poor people are often engaged in various forms of illegality (housing, work, use of electricity etc.) and so only encounter the legal system if they are being prosecuted. Even when poor people seek

¹² Reis and Moore introduce the idea of ‘perceptions of poverty’, which they argue are a combination of *cognitions* (non-evaluative understanding); *norms* (internalised ideas about appropriate roles); and *values* (ideals about what might be). In the volume they edited, the authors used the following types of questions to understand perceptions of poverty: What does ‘poverty’ mean? What and how does it represent a problem, if at all? Why are some people poor and others wealthy? Who is to blame for what? Who should take the initiative in dealing with poverty? There will be obvious incoherence and internal contradictions (2005: 3).

legal redress, access to legal institutions is very difficult (Anderson, 2003). Legal institutions and the law might even construct poverty internally and cross-border – in the sense that the legal institutions determine who is recognised before the law, who has the assets to use the legal systems and the legal rules relating to property, contract, family (inheritance) and tort law. Poor or marginalised groups may be excluded from using these legal systems because of financial expense, ignorance, illiteracy, vulnerability to harassment and bribe demands, and poor political representation (Williams, 2003: 1).

Therefore, strengthening poor people's access to the legal system can contribute strongly to poverty reduction. Anderson (2003: 1) argues that 'the legal system offers an arena in which people can hold political and public officials to account, protect themselves from exploitation by those with more power and resolve conflicts that are individual or collective'.

Golub (2003: 3) has pioneered a reassessment of how one might best promote poor people's access to justice. He critiques the received wisdom, which says that access to justice is achieved by building the rule of law. He states that the 'rule of law orthodoxy' is a top-down and state-centred approach that concentrates on law reform and government institutions to build business-friendly legal systems or as a way of promoting additional goals such as good governance. The problem is that this orthodoxy is based on questionable assumptions, unproven impact and insufficient attention to the legal needs of the poor. The alternative that he proposes is *legal empowerment* – 'the use of legal services and related development activities to increase disadvantaged populations' control over their lives'.

Legal empowerment comes out of community-driven and rights-based development. It bridges the gap between law and development and is both a process and a goal. As a process, it involves the use of law to increase disadvantaged populations' control over their lives through a combination of education and action. This control can relate to a number of different areas – basic security, livelihood, access to essential resources, etc. It reflects increased knowledge, capacity and confidence of the disadvantaged and their ability to work together to advance common development objectives. The goal of legal empowerment is to increase the control the disadvantaged have over their lives through the use of law (Golub and McQuay, 2001).

The legal empowerment approach differs from rule of law orthodoxy in at least four ways: i) lawyers support the poor as partners, instead of dominating them as proprietors of expertise; ii) the disadvantaged play a role in setting priorities, rather than government officials and donor personnel dictating the agenda; iii) addressing these priorities frequently involves non-judicial strategies that transcend narrow notions of legal systems, justice sectors and institution building; iv) even more broadly, the use of law is often just part of integrated strategies that include other development activities (Golub, 2003).

Legal empowerment equips the disadvantaged to advance more effectively their needs through engagement with the legal system, public agencies, civil society, private parties and law reform efforts through activities such as: using print media; using broadcast media/performing arts and popular culture; community-based training; paralegals; alternative dispute resolution; and legal aid (while this can include representation in formal court proceedings, it frequently involves advice and assistance that avoids the need for cases to be tried, including alternative dispute resolution or engagement with administrative agencies (Golub and McQuay, 2001). Legal empowerment works to raise the critical consciousness of disadvantaged groups to be able to understand and think about the inequitable power relations that affect their lives and to take action (Golub and McQuay, 2001). An interesting question is the role of legal aid lawyers in raising the 'critical consciousness' of the people they help.

Legal empowerment initiatives need to be 'mainstreamed' into general development activities to be successful. Many NGOs (and similarly oriented law school programmes) working on legal empowerment integrate their legal work (litigation, representation, negotiation, counselling and training) with other efforts that build the capacities and power of marginalised populations (group formation, community development, community organising, paralegal training, political mobilisation, administrative advocacy and alliance building) (ID21, 2002b).

Box 2: ‘Mainstreaming’ legal empowerment to benefit rights, development and project performance

- Natural resource management in Ecuador – undertaken by CARE in collaboration with local Afro-Ecuadorian groups.
- Public health in South Africa – example of a legal empowerment strategy that has effectively used public interest litigation built on a base of community and political activism. Centres have historically worked to undermine restrictions imposed under apartheid and now link with NGOs and have had significant impact on housing, land and health rights.
- Land reform in the Philippines – Alternative Law Groups (ALGs) have contributed to scores of national regulations and laws concerning agrarian reform, violence against women, indigenous peoples’ rights, environmental protection, etc. ALGs derive expertise and credibility by working at grassroots level, where they make the most of existing laws while learning what reforms might make sense and, most crucially, what reforms the communities want. Partner community-based organisations have not worked through the courts for a number of reasons.

Source: Golub (2003: 30-2).

Lawyers are elites and can play a significant role in activities to improve the legal system that will have a positive impact on poor people’s rights and poverty status in the long run. Anderson talks about ‘Law Movements’: political, mainly elite, groupings that take action to improve the rule of law and legal institutions. Although this is not explicitly pro-poor action, the outcomes could benefit poor people. These movements could be linked with Moore and Hossain’s argument about elites acting when they identify an opportunity where they are also likely to benefit from the outcomes (see above).

Legal aid organisations are another example of lawyers working to improve the rights of poor people (see below for examples of organisations). A World Bank assessment of an NGO legal services programme it supported for poor women in Ecuador looked at whether the legal aid clinics had a positive impact on poverty reduction efforts. However, focusing on the direct effects of legal aid is a costly way of dealing with poverty (i.e. one problem/person at a time). Therefore, the main aim of the study was to assess whether the legal aid clinics had any poverty reduction impacts on the women they did not serve – measuring the spill-over effects on the incomes of the people whose economic status was improved because the clinics changed the expectations of poor women and their domestic partners. The study raised a number of challenges: what to measure and finding a practical way of measuring. The problems of data (clinics did not collect data, had no evaluation component built in etc.) meant that econometric results were useful chiefly to demonstrate that empirical evaluations of contributions of legal and judicial reform to economic development are possible. However, even without being able to measure the full benefits of clinics and the spill-over impact for non-participants, it was possible to conclude that they appeared to make a contribution to the economic wellbeing of poor women in Ecuador. The study concludes by recommending that future legal and judicial reform projects should be used to promote economic development by capitalising on the law’s potential leverage or spill-over effects on the incentives of economic agents (Owen et al, 2003).

Against this background, it would seem likely that lawyers, as a distinct elite group, are in a good position to have an impact on the policy processes of legal reform. When working in legal aid centres, it also seems likely that they can have a significant impact on legal empowerment. However, as the cases in the next section show, this is not always the case; several other factors can play a determinative role in whether or not lawyers are able to use their community-learnt knowledge to influence policy.

3 Case Studies and Comparative Analysis

3.1 The Uganda Association of Women Lawyers (FIDA U), Uganda

FIDA (U) was established in 1974 to uplift the status of women and children and to promote the observance of their rights and responsibilities. FIDA (U) has an uncompromising commitment to providing legal services for women and children whose rights are abused, denied and neglected. However, the organisation also provides services for men who are in need of legal assistance. All clients must meet the same criteria, namely that they are poor and disadvantaged. The organisation works on issues ranging from land disputes, through commercial transactions and contractual obligations, to sexual harassment. FIDA (U) does not, however, cover criminal cases, but does cooperate with the police who handle these cases.

FIDA (U)'s head office is in Kampala and there are branch offices in Arua, Tororo, Luwero, Mbale and Mbarara, as well as mobile legal clinics in numerous districts, including Kampala, Wakiso, Mpigi, Iganga and Kumi. FIDA (U) is non-governmental, non-partisan and non-profit making. It is also a membership-based organisation. All members of staff are women, as it is an organisation of women lawyers. There are around 50 full-time staff and around 250 members. In the past years it has had over 9,000 new cases on legal-related matters every year.

The objectives of FIDA (U) are:

- To create awareness of legal rights, obligations and responsibilities among the Ugandan general public;
- To promote the stability of families through provision of legal services and counselling;
- To assist women and children, especially widows and orphans, to attain effective protection of their rights under the law; and
- To provide a platform for FIDA (U) members to interact both socially and intellectually.

Work programmes

The organisation has three core programmes: i) legal aid service provision; ii) research and advocacy; and iii) information, education and documentation.

1. Legal aid service provision. Any client who comes to FIDA (U) must pay Uganda Shillings 1,000 (equivalent to around \$0,50) on their first visit to any of the legal aid clinics. At the legal aid clinics, FIDA (U) lawyers attend to clients by listening to their complaints and identifying the action that should be taken. FIDA (U) provides lawyers who can give advice, organise mediation sessions, if necessary prepare a case for court, or even offer counselling and education. Sometimes, a client is not able to pay court fees. In this case, FIDA (U) may cover the costs, providing the client has a good case. On the whole, the lawyers aim to assist the clients in achieving justice and protecting their human rights.

As a part of this programme, FIDA (U) runs child support programmes, with the aim of protecting children from all forms of abuse. The Children's Desk programme focuses on mainstreaming children's rights throughout FIDA (U)'s programmes. All staff who handle child cases are trained to do so professionally, expeditiously and in a friendly manner, in order to support the total rehabilitation of a child that has been the victim of abuse. FIDA (U) has also implemented various community support programmes, facilitated by the use of mobile legal clinics.

2. Research and advocacy. FIDA (U) aims to be at the forefront of championing a legal and regulatory framework in Uganda that adequately promotes and support women's rights and human rights in general. Many of Uganda's laws, rules and regulations are outdated in this regard, and the programme therefore attempts to influence legal and policy change to secure human rights. FIDA (U) collects data for lobbying to amend laws and policies that protect women and children. Research also focuses on the causes of inequality under the law, or collecting feedback on proposed legal reforms. Work done with clients in FIDA (U)'s clinics provides a useful data source.

FIDA (U) networks and collaborates with other like-minded organisations to achieve its objectives. FIDA (U) believes that a collective voice has greater impact, and therefore the organisation is part of or has spearheaded advocacy efforts that aim at improving the legal status of women and children. Notable among such efforts are the Domestic Relations Bill Coalition, the Sexual Offences Bill, Access to Information Coalition, the Coalition for Political Advancement of Women (COPAW) and the Coalition against Violence against Women. The need to initiate a campaign often arises from FIDA (U)'s broad base of legal cases, especially when a particular type of individual case in the legal aid clinic has become very common. FIDA (U) then mainly targets law and policymakers.

3. Information, education and documentation. This programme includes legal education and public relations. FIDA (U) aims to inform the public about the law, women's rights and human rights in general through the use of media, publications, awareness seminars, lectures and workshops. The organisation strives to communicate effectively to its target audiences (its clientele, stakeholders, key decision makers, the local and international civil society and the general public).

In order to maintain a good public image, FIDA (U) ensures that the public and key stakeholders are fully aware of its achievements and constraints. The services it offers in many ways challenges the socioeconomic *status quo*, and it is important for the association to anticipate and manage effectively any possible backlash that may affect its clients and members.

Based on the experiences of the legal education programmes, FIDA (U) develops simplified publications in local languages to educate and create awareness about the law, gender issues and human rights in the community. The educational materials are widely distributed in the areas of operation to be used as reference materials by the trained community volunteers, childcare advocates, paralegals, local leaders and law enforcement officers. FIDA (U) has organised legal awareness sessions and education activities over the past 20 years in order to raise the awareness of women and children about their rights and their role in protecting and enforcing them. FIDA (U) also targets community leaders, political and religious leaders and education institutions to increase their awareness of the need to promote and protect women and children's rights as a part of the development agenda in Uganda.

Legal empowerment

FIDA (U) intends to empower women through its work because it believes this to be a key element of legal empowerment in Uganda. This is perhaps all the more important today than it was when the organisation was set up in the 1970s. In the 1970s and early 1980s, FIDA (U) was not very active owing to the highly unstable political situation. In 1986, when the National Resistance Movement came into government, there was a large need for legal services in a post-war situation. However, many women (e.g. widows) could not afford such services. In this political context, FIDA (U)'s services in free legal aid clinics have become very important as part of a broader empowerment effort.

Legal empowerment is complex and this is recognised in FIDA (U)'s work. It therefore includes various aspects in its work plans, including the laws of Uganda; gender equality; gender-based violence; human rights (especially women and children's rights); laws for marriage such as marital property; domestic relations; political participation (women's political participation); issues of HIV/AIDS; land law/land disputes; employment rights; refugee law; civic education; sexual offences; child care; and the role of the community in the protection of children's rights. Sometimes, the organisation also seeks to impact legal reform. This is especially the case when single laws are being made that affect the rights of women or children, or when the organisation comes up against a recurring pattern of individual cases that could be ameliorated through legal reform. Many times, however, legal empowerment is not legal reform but simply being able to proceed with the correct birth registration, marriage registration and divorce registration, recording of will, etc. Civic awareness building is thus an important element in legal empowerment.

Policy engagement and influence

Many of FIDA (U)'s members are highly placed, in international organisations, in government, in the private sector and in NGOs. One of the strengths of the organisation is thus that it can 'make friends' and maintain a wide range of contacts. The organisation also employs staff who are 'networking representatives' and who aim to facilitate networking opportunities.

In its networking activities, FIDA (U) draws on the members of its various organs, boards and committees. The organisation has three main organs: the General Assembly, the Executive Committee, and the Secretariat. In addition to the three decision-making organs, FIDA (U) has several advisory committees: the Senior Advisory Committee, involved in the professional development of members of the association, and the Program Advisory Committees (PACs), which bring together FIDA (U) members involved in policy formulation, programme design and implementation. Currently, there are four PACs, namely Legal Aid PAC, Research PAC, Legal Education PAC and Children's Desk PAC. The committee work involves a wide range of people with the organisation.

Drawing on its various members and contacts, FIDA (U) arranges an ongoing series of events that strengthens its ties with policymakers. For example, the First Lady of Uganda, Mrs Janet Museveni, was recently invited to inspect publications produced by FIDA (U), and the Nabagereka (Queen) of the Kingdom of Buganda presided over a FIDA (U) Fundraising Dinner. FIDA (U) has invited senior policymakers to various of its workshops and social events, including the Speaker of Parliament, government ministers and the Chief Justice of Uganda. FIDA (U) Board members and staff also pay courtesy calls to policymakers and maintain cordial relations.

Through proactive engagement, FIDA (U) has sought to influence several policy processes. In addition to events, networking and coalition building, the organisation also sets up training workshops for its own staff to strengthen their advocacy and engagement skills. When seeking to influence a specific policy, it often sets up a committee to guide the work, and may establish a 'policy project' in order to collect the data and evidence that it needs in order to present its case to the policymakers. Finally, FIDA is a global organisation and has many international donors. This gives it a strong standing in the internal political context in Uganda.¹³

3.2 The Legal Resources Centre (LRC), South Africa

The Legal Resources Centre (LRC) was established over 20 years ago as an independent, client-based, non-profit public interest law centre which uses law as an instrument of justice. It aims towards the development of 'a fully democratic society based on the principle of substantive equality, by providing legal services for the vulnerable and marginalised, including the poor, homeless and landless people and communities of South Africa who suffer discrimination by reason of race, class, gender, disability or by reason of social, economic, and historical circumstances'.¹⁴

LRC has become a nation-wide organisation with offices in the five major cities of the country, each with between five and 14 paid members of staff. It works in both rural and urban settings, and with formal and informal communities. Our key informant is a senior lawyer with LRC, based in the relatively large Durban office and who has worked with the organisation over the long term.

Work programmes

LRC uses a range of innovative strategies, including impact litigation, law reform, participation in partnerships and development processes, education and networking within and outside South Africa.

¹³ Its donors include NOVIB, CORDAID, Save the Children – Denmark, Save the Children – UK, Plan International, Christian Aid – UK, MS Uganda, the Finnish Embassy, Terre Des Hommes, Ford Foundation, the US Embassy, the British Council, USAID, DFID, SNV, AES Nile Power, Danida and AUSAID.

¹⁴ See www.lrc.org.za.

The centre supports 19 projects, including:

- The **Children's Rights Project** focuses on issues around the basic right to education. Representation on school facilities (running water, toilet facilities, fencing telephones and ventilation, buildings, lighting and electricity), road safety, inaccessibility of government provided school-feeding programmes, withholding of examination results and school exclusions have been brought on behalf of disadvantaged and excluded individual schools and pupils.
- The **Farm Dweller Project** is concerned with preventing eviction of farm-dwellers and ensuring tenure security of farm labourers. Farm dwellers and labour tenants have no confidence in the legal aid system and in most instances they live near small towns with very few lawyers, most of whom represent the landowners. The project aims to bring class action suits on behalf of labour tenants who have lodged labour tenant applications and to facilitate access to justice for them.
- The **Land Reform Project** focuses on: litigating in order to establish precedents; representing clients to secure settlements outside court; and assisting clients to access state support for land to be acquired by them or on their behalf. This includes facilitating access in terms of the various Department of Land Affairs' programmes (SLAG, LRAD, Municipal Commonage).
- The **Environmental Justice Project** seeks to protect poor and vulnerable communities from the unfair and discriminatory distribution of adverse environmental impacts of development activities, and to enhance environmental decision making. The main mechanisms employed are litigation, representation of clients during administrative procedures, networking, advocacy and law reform.
- The **Social Welfare Project** is concerned with using the law to enforce and broaden the state's constitutional obligation to support those unable to support themselves and their dependents by reason of old age, disability or parenthood as guaranteed in Section 27(1)(c) of the Constitution. The primary mechanism for doing so is litigation, although social advocacy is not excluded. Some of this work has attracted a large amount of publicity.
- The **Women's Rights Project**: Women still struggle to access the rights enshrined in the Constitution, insofar as they still struggle to access courts and lawyers. The Women's Rights Project focuses on providing women with legal advice, legal representation and negotiation. The project works on a wide range of issues, seeking to end systemic gender discrimination, including litigating against violence against women.
- The **Constitutional Litigation Unit**: The LRC's constitutional rights work seeks to contribute towards an expanded body of human rights and constitutional jurisprudence. It focuses particularly on constitutional issues that have an impact on poverty and inequality. The unit is currently quite small and some work is conducted privately.

Legal empowerment

Virtually all LRC's clients are poor black people. Some of the most common cases relate to accessing grants and pensions, dealing with eviction of people from homes and restitution of land that was appropriated during the Apartheid era.

LRC's Candidate Attorney Project has created the opportunity for young black and/or female law graduates to gain broad practical experience in the practice of public interest law. These trainee staff are taught those laws with particular relevance to poor people – e.g. social assistance laws, pension laws and laws relating to eviction from housing. Trainees are expected to welcome people who come in off the street and efficiently find out what problems these persons have and whether the office can offer legal assistance. The LRC Durban office, for example, is centrally located in the downtown area with a front office set up for people to walk in off the streets. Individuals are welcomed and screened by candidate attorneys who determine whether there is a legal case to be met. Cases are taken forward by a senior attorney. Over 5,000 people walked in during the last year, and of that number the office opened close to 300 files.¹⁵ The office also runs specific outreach programmes where staff go out and find clients, particularly when they can not come to the office themselves. LRC has a highly proactive approach to opening cases.

¹⁵ Often, people walk in who are actually in the wrong place; sometimes, people think they can access charity from the office and others do not require legal services but are looking for counselling services.

Because of limited resources, LRC prioritises those cases with greater public impact potential and avoids cases that only benefit individuals. LRC identifies patterns that develop in terms of particular abuses and then draws a profile of an 'ideal client' before then actively seeking them out. Once there is a set of clients, LRC launches proceedings in the High Court to try to bring an end to the particular abuse.

A recent case related to a school with large numbers of poor children not receiving government-sponsored feeding. LRC took the case to the High Court to compel the government to include the school on the scheme and won.

LRC Durban has recently been representing street traders. Abuse of street traders has been happening for many years, but has recently escalated in response to the 2010 World Cup to be held in South Africa. The big cities are gearing up to reflect a sanitised and clean Eurocentric image, within which street trading does not fit. Traders, along with beggars and other people who are perceived to not fit, are being removed (by force) by the authorities. The majority of street traders are women. LRC employs specialised attorneys who focus on women's rights to work with these poor groups.

Our key informant mainly litigates at the High Court but notes that other members of staff work on other forms of mediation and litigation. For example, land matters will be dealt with in the land claims courts. Reflecting on why so many LRC cases have had to be taken all the way to the High Court, he identified a disjuncture between legal frameworks and the delivery of justice: while the legal framework formally protects the rights of the marginalised, this is not always carried through in practice.

Poor communications and a lack of appropriate institutional structures contribute to this confusion and disjuncture. A recent case of refugee access to social grants illustrates this well. Refugees were entitled to certain grants from the Department of Social Welfare but could not access them without appropriate identity documents. The distinct identity documentation that refugees were issued with by the Department of Home Affairs was not acceptable to the Department of Social Welfare. LRC went to the High Court to expose the systemic malfunctioning, and an order was placed on the government departments to rectify the situation. This simple lack of compatibility between government departments resulted in a serious negation of refugee rights, but it is beyond the ability of most vulnerable people to deal with these structural confusions without external assistance.

Policy engagement and influence

Towards the end of the Apartheid era in South Africa, there was confidence that a democratically elected black government would not abuse the rights of the black poor. However, abuses continued after 1994 and in some instances got worse. There has been much disappointment over this. LRC does carry out specific activities to influence government and policy processes (through e.g. law and policy reform projects), but our key informant felt downbeat about the impact the organisation has on policy processes.

He contended that LRC has no impact on policymakers at all, and that it finds it receives a hostile reception. This may reflect the fact that tried cases show policymakers in a bad light, and there is much resentment about the negative publicity – which brings with it negative consequences. For example, LRC is taking forward a court case for the Phoenix Plaza Street Traders Association. The case aims to remove a particular bylaw (and the part of the Act allowing for the bylaw) that allows the municipality to remove and impound the goods of street traders because it considers them to be illegal. LRC lawyers argue that these street traders are trying to earn a living and often they are the sole breadwinners. LRC lawyers have been surprised at the vigour with which city government has fought against the street vendors. Ultimately, this case will now end up in court, with the municipality ready to spend tens of thousands of dollars in legal fees rather than spending it on delivering social benefits.

LRC works with the media from time to time and some cases capture significant coverage. When new cases are launched, relevant court documents are sent to the media so that they can publicise the court actions. LRC's good relations with the printed media usually results in coverage, whereas a cooler reception is frequently received from the government-run TV and radio stations.

There are some opportunities for formal policy engagement when government policy papers are released for comment. Recently a paper was released in relation to restructuring the judiciary, and the LRC made an organisational submission to parliament. However, LRC does not make use of this opportunity very often, as it is very resource intensive. LRC staff feel uncertain about where and how submissions would make the most impact, and recognise that even if they allocated time and effort to engage with the policy process it is not guaranteed that government will take the submission into account. As maintained by our informant: You make a submission and it just disappears into the bush! As these cases show, the staff at LRC have a wealth of experiential knowledge concerning the situation of the poor communities with which they work. Through their work, they gain both a comprehensive and contextual understanding of the reality of the poor and of the way in which the legal system impacts on this reality. The evidence that they gather for court cases is necessarily both relevant and credible, meets legal standards and is often very timely.

However, despite the wealth of experiential knowledge and clear evidence that LRC has at its disposal, staff find it very challenging to influence policymakers and policy processes in a pro-poor direction. In the following section we will turn to the possible reasons for this difficulty.

3.3 Comparative analysis

It seems that LRC and FIDA (U) have somewhat different experiences in their attempts to influence policy debates and outcomes. There are many individual cases where both organisations have been able to influence policy successfully; on the whole, though, it can be said that LRC seems to face more challenges in this regard than FIDA (U). What can account for this overall difference?

Political context: LRC and FIDA (U) work in different political contexts. South Africa had its first universal elections in 1994. In Uganda, multi-party democracy was evident in the immediate post-independence period (1962-7), and during the 1980s, albeit alongside claims of massive election rigging. Since then, Uganda only experienced its first multi-party election this year (2006). The transition to democratic elections has been different in each country, and this marks the two case study organisations. Both of them work in political contexts where the government is explicitly committed to poverty reduction. But present day politics are a product of numerous political processes which unfolded in the colonial, apartheid and post-apartheid eras, where contestation of power was (and still is) the norm, and hence raising such issues was (and is) seen as a form of struggle for liberation. LRC carries out its work in the spirit of anti-apartheid struggle, with the underlying sentiment that it is necessary to speak truth to power. They are cast in an oppositional role to government. FIDA (U), on the other hand, are building on a tradition of close personal ties between government and public institutions. In contradiction to LRC, FIDA (U) is most frequently cast in the role of collaborator with government. There might also be a few additional complicating factors in the South African case owing to the enormous social transformations that the South African society is going through.

Political threat and political image: Both LRC and FIDA (U) are seen as organisations challenging the *status quo*. They work for the rights of poor and marginalised groups and advocate on behalf of these vis-à-vis government. Thus, they both risk being labelled a ‘political threat’ although each deals very differently with this. LRC accepts this image and works with it; FIDA (U) actively tries to minimise the perception of threat. When it works to disrupt the *status quo*, it attempts to ‘make friends’ with policymakers in the process so that its work will not be seen as a political threat.

Legal institutions: Both organisations work within a context where there are adequate legal institutions; they both make active use of these. LRC especially seems to use the High Court and other institutions, such as the land dispute courts, to their full advantage.

Evidence base: The evidence base of the two organisations seems comparatively similar. They both have a large volume of cases to handle on behalf of poor and marginalised individuals or communities. In the midst of this work they both attempt to keep track of recurring patterns, and if possible to handle cases that can set a precedent. They both have a vast and credible amount of community-learned knowledge that could potentially be brought to bear on national policies.

Number of staff: One important difference between the two organisations is the number of staff they employ. LRC has a somewhat lower number of paid staff, and these are therefore stretched to do their best on all legal aid cases. FIDA (U) has a higher number of paid staff, and in addition can draw on the voluntary services of all members. This gives FIDA (U) a great deal more scope to invest actively in areas of work that are not directly tied to the legal aid cases it is handling at any one time. It is able to delegate additional tasks, such as research or public information or networking, to paid members of staff.

Training of staff: FIDA (U) includes a range of activities in its staff training, including advocacy skills. This emphasises that policy engagement is a primary aim of the organisation. In addition, it sets up courses to respond to the needs of their staff, for example on how to produce radio programmes.

Networking: FIDA (U) actively uses its Advisory Board members and other high-level staff and members to pay cordial visits to policymakers and to maintain contacts. It asks policymakers to host fundraising dinners for them. It even employs staff whose responsibility is to guide the organisation's networking activities. This stands in contrast to LRC, which is also keen on having contact with policymakers, but which does not have the staff time or resources to concentrate on networking as one of the primary activities. Instead, it is forced to seize the opportunity as and when it arises.

Using celebrities: FIDA (U) has found that local celebrities raise its public profile and assist in its networking. It thus makes contact with personalities such as Miss Uganda and the country's First Lady, asking these known people to accompany it on site visits or at formal dinners. This attracts the attention of the media and can also act as a conduit to further political contacts.

Work with law enforcement agencies: Both LRC and FIDA (U) attempt to work with other institutions and agencies in their field, such as the police or other NGOs. FIDA (U) has arrived at an overt agreement with the police over which cases are handled by FIDA (U) and which it can refer to the police. This cooperation strengthens ties between the legal aid centre and one of the formal law enforcement institutions.

Coalitions and policy projects: Owing to the large number of staff, volunteers, 'friends' and contacts that FIDA (U) can draw on, it often chooses to form formal coalitions with others when it is aiming to influence a certain policy. This strengthens its chances of influencing policy because it makes the stance more visible in the public arena. If it is targeting a specific policy that it wishes to influence, it may also establish a 'policy project' in order to carry out the various activities that might contribute to policy change (e.g. research, networking, coalition building). LRC works on a more *ad hoc* basis when it comes to policy influencing. When the opportunity presents itself, it tries to take it but, owing to lower staff numbers, this is not always possible. In addition, owing to lack of networking with policymakers and a confrontational approach on policy issues, it has its policy advice not being taken into account. This is highly demotivating for staff.

4 Lessons

In conclusion, let us first return to the key question posed at the beginning of this paper, namely: *How and under what circumstances can elites bring experiential knowledge about the situation of the poor to bear on policy debates?* In addressing this, we started from the observation that experiential knowledge tends to be dismissed in policy discussions (i.e. information and knowledge acquired by individuals through personal experience or gathered by CSOs through working in poor areas, where staff can see firsthand the daily lives of poor people). Moreover, we raised the question of whether there is a link between this important knowledge and the potentially pivotal role that elites can play as conduits, communicating community-learned knowledge of the situation of the poor into national-level pro-poor policies.

Although there have also been a number of studies looking at the role of elites in poverty reduction, and their perceptions of poverty and the poor, these do not seem to explain the findings that we can draw from our two case studies. In both the two case study organisations, the elites involved (i.e. the lawyers) have similar perceptions of poverty and the poor: they recognise that the rights of the poor are often overlooked, and they wish to change this by using legal empowerment and the legal system. They attempt to work on cases that are in some way ‘representative’ of a wider problem within the legal system, and in this way wish to influence legal reform. In short, they are highly motivated to act as conduits of their community-learned knowledge and they wish to channel this into the policy process. However, despite their similar perceptions, it seems that one of the case study organisations is more effective at policy engagement than the other. Therefore, we must conclude that the *perceptions* held by the elites involved in these two cases are not necessarily determinative of whether they are able to influence policy in a pro-poor direction or not.

In fact, it seems that the lawyers’ position as elite members can both work for and against them. In the case of FIDA (U), the senior lawyers are able to draw on their social status in order to gain access to Ministers’ offices – paying them cordial visits, etc. In the case of LRC, on the other hand, the lawyers’ involvement in fighting for the rights of the street vendors, for example, seems to have aggravated the local municipality to the extent that they are now prepared to fight an expensive battle against LRC and the street vendors in court. The involvement of an elite group, such as lawyers, makes any neglect or abuse of rights more visible in the public arena, and thus it raises the stakes for the policymakers involved. It can even make the policymakers react more negatively because they resent the public criticism.

This may be true of elite involvement in policy processes more widely. We have been dealing with one elite group, namely lawyers working in legal aid centres, but the findings to some extent seem applicable to other elite groups as well, e.g. medical doctors or spiritual leaders (priests, imams, etc.). They have access to some experiential knowledge of the situation of the poor, which policymakers may not necessarily have, and in this sense their contribution and involvement may be highly valuable in policy processes. However, the very fact of elite involvement in policy processes may trigger a range of responses from the policymakers, ranging from friendly interest to deeply distrustful battles. When the policymakers feel that the lawyers (or doctors, or spiritual leaders, etc.) in question are paying special attention to them in a positive way, and inviting their help, it is not surprising that they will react in a more open manner than when they feel that the elite group in question may expose and criticise them in the public arena, and fight them until one party loses and is humiliated.

There are therefore a number of other factors that also play a crucial role in determining whether lawyers as an elite group can productively channel community-learned knowledge into policy processes. Based on the case studies presented here, and the comparison between them, we would especially highlight the following factors that can either hinder or promote elites’ ability to bring experiential knowledge to bear on policy debates.

4.1 The importance of links

The key set of lessons to come out of these cases concerns the importance of links:

- **Network:** Invest in staff who can facilitate networking activities. Use board members actively in facilitating links with prominent actors.
- **Events:** Invest in a series of events that bring people together, such as launches, dinners or site tours.
- **Cooperation:** Invest in cooperation even though this demands time and effort. Forge and use links with other institutions, such as government departments and the police.
- **Coalitions:** Invest in making policy-influencing activities visible and strong. Build coalitions with other CSOs who wish to influence the same policies.

4.2 People use

We have also found that the constraints imposed by limited staff numbers and resources can have a serious impact on the organisation's ability to actively invest in the activities mentioned above. This leads on to a set of lessons around people use:

- **Donors:** Actively invest in donor engagement through invitations, fundraising dinners, reporting, etc.
- **Volunteers:** Use volunteers to supplement the work of paid staff, if possible.
- **Board and committee members:** Create several boards (advisory or otherwise) and committees tied to the organisation. This forges links to a large number of people who will have an interest in promoting the organisation.

4.3 Strategic planning

Finally, a set of lessons has emerged around the important role of strategic planning. This, however, will not be effective unless the two sets of lessons above are also addressed.

- **Aims:** Include policy engagement and influence as a key aim of the organisation, rather than an optional bonus.
- **Budget:** Set aside resources in the budget for 'policy projects' (i.e. projects specifically designed to engage with and influence a policy).
- **Staff development:** Train staff in the skills they need to engage with policy-level activities, such as advocacy and networking.

4.4 Conclusion

In sum, we have found that the elite groups in our two cases did indeed have a wealth of experiential knowledge about the situation of the poor communities with which they are working. They had in-depth understanding of the reality of the poor and clear recommendations regarding pro-poor legal reform and empowerment, based on their direct work with poor communities. However, their ability to channel this experiential knowledge into policy processes was highly variable. It seems that the most important factors constraining or enabling their ability to influence policy did not concern their access to evidence *per se* – they both have credible, relevant, timely and clear evidence at their fingertips. Rather, the key constraining or enabling factors concerned their processes for making use of this evidence – through links, people use and strategic planning.

The published literature on elite involvement in pro-poor policy largely neglects questions around the role of elites as conduits of experiential knowledge. Instead, it focuses on the role of elite perceptions of poverty. But, as we have found, elite perceptions may not have a determinative impact on whether or not the elite group in question is able to engage with policymakers in a constructive manner. The two brief case studies outlined in the paper highlight some of the complexities of specificity and context.

Despite having broadly similar policy stands (i.e. they are working for the rights of the poor through legal processes), their policy outcomes are very different (i.e. it seems they have very different chances of influencing policy).

We have identified a small number of practical and strategic steps forward. However, how far the organisational approaches illustrated through these two case studies – namely FIDA (U)'s approach of building trust and consensus between themselves and policymakers and LRC's attempt to speak truth to power – can be logically tackled through capacity considerations is unclear. Our preliminary analysis indicates that more complex socio-political processes and historical patterns of engagement are important. This paper has therefore opened up what seems to be a broadly neglected area of study within the field of pro-poor policymaking, and potentially a highly important one.

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