

Legal Empowerment of the Poor (LEP)

Concept note for strategic cross-faculty research at Lund University

This concept note has been prepared by the following individuals, sharing common values and research interests, from various departments across Lund University.

Professor Lennart Olsson (co-ordinator), Centre for Sustainability Studies (LUCSUS)
Professor Göran Djurfeldt, Department of Sociology, Faculty of Social Sciences
Professor Boel Flodgren, Department of Business Law, School of Economics
Professor Håkan Hyden, Institute for Sociology of Law, Faculty of Social Sciences
Docent Johannes Persson, Department of Philosophy, Faculty of Humanities
Professor Per-Olof Östergren, Division of Social Medicine and Global Health, Faculty of Medicine

Rationale

This proposal is rooted in three years of cooperation between academic communities in Sweden and Norway and the High Level Commission on Legal Empowerment of the Poor (HLCLEP)¹. Across the world, over four billion people are deprived of legal rights (Hammond et al. 2007). As a consequence many of the opportunities to better their lives and get out of poverty are severely restricted (HLCLEP 2008). The lack of legal protection range from fundamental legal identity of individuals to land rights, property rights, labour rights and business rights. The multitude of linkages between poverty, legal protection of the poor and sustainability is a largely neglected area of research and education, not only in Sweden but also internationally. The issue therefore needs prompt and thorough research initiatives across disciplines. To understand the complexity of legal empowerment, the research needs to involve disciplines across the full range of faculties and it needs to bridge science and society.

¹ HLCLEP was led by M. Albright and H. De Soto for four years (2005-08) and comprised 30 high level commissioners from across the world. The final report was formally released in the UN general Assembly on June 3 2008. More information on the HLCLEP is found on their homepage: www.undp.org/legalempowerment. Lund University has a strong link to the HLCLEP through one of the commissioners, Allan Larsson, Chairman of the Lund University Board.

Objectives

The overall aim of the LEP-initiative is to contribute to the establishment of a solid and broad foundation for research and education at LU and in Scandinavia on the issue of legal empowerment of the poor (LEP) and, if possible, a *Scandinavian School for the Legal Empowerment of the Poor*². The LEP-initiative will be a strong counterpart to the already existing Norwegian network ANLEP (Academic Network for LEP) based at University of Oslo (SUM). It builds on the work carried out by the HLCLEP and is closely associated with the commission. This proposal is a joint undertaking between several faculties at Lund University with the aim to initiate a process in which we broaden the base to also include other universities in Sweden³.

Legal pillars

The HLCLEP proposed a comprehensive agenda for legal empowerment comprising the four pillars below; all critical for providing the poor with protection as well as opportunities for getting out of poverty. Proceeding from the four pillars, this project seeks to expand the scope of legal empowerment. In the perspective of existing science, our research strategy relates to the broad field of Human rights where rights are seen less from a black letter law point of view and more as a mobilising tool for vulnerable groups in society. Such a perspective on Human rights stimulates a highly inter-disciplinary and cooperative scientific approach across faculties.

The most fundamental pillar, on which others rest, is *access to justice and rule of law*. Important dimensions of the first pillar include for example: ensuring legal identity of all citizens registered at birth; modifying laws and regulations that are biased against the poor; facilitating the creation of organisations working in the interest of the poor; establishing a formal judicial system, a land administration system and relevant institutions capable of integrating already existing customary and informal legal procedures; supporting concrete measures for legal empowerment of women, minorities, refugees and other legally weak groups of society.

² The idea of a Scandinavian School for Legal Empowerment of the Poor has been coined by one of the commissioners in the HLCLEP, Mr Allan Larsson.

³ An informal network has already been established and a joint proposal for seed money has been submitted to Sida.

The second pillar is *property rights*. A functioning property system is composed of four building blocks: a system of rules defining the bundle of rights and obligations between people and assets with due consideration to the diversity of property systems around the world; a system of governance; a functioning market for the exchange of assets; and an instrument of social policy. When the property rights system includes all citizens, it may function as a means for promoting many dimensions of development including economic and social mobility (Adhikari 2005).

The third pillar is *labour rights*. Poor people spend most of their time working. But labour is not a commodity that can be traded and exchanged like goods covered by property rights. It is the most valuable asset of the poor and it needs the protection of a legal system. The aim of labour rights is to ensure freely chosen and productive work, carried out in conditions of freedom, dignity and equality – in short a ‘decent work agenda’ (Ghai 2003).

The fourth pillar is *business rights*. Most of the world’s poor entrepreneurs operate informally because large shares of developing economies function informally. In a market economy the opportunity to start and operate a business is fundamental but a majority of poor people are still deprived of the legal means and protection to do business (Schneider 2007).

To complement the four pillars identified by the HLCLEP, we intend to integrate two important dimensions:

- the relationship between the *national and the international*,
- the relationship between *society and the environment*.

The first dimension, *spatial justice*, is particularly important in the context of globalisation and sustainable development. International trade (Hertel and Winters 2006) and climate change (Tschakert and Olsson 2005) are supra-national issues negotiated internationally but experienced locally, often with strong consequences for poor communities and vulnerable people. Even if the poor have negligible options to influence such negotiations, their needs and deeds must be taken seriously in order to make international agreements conducive to development of the poor and to minimise the potential negative effects (such as price shocks) on the poor.

The second dimension, *environmental justice*, is often used to describe two different kinds of relationships between society and environment. On the one hand, poor people across the world

are often more exposed to and therefore more vulnerable to environmental hazards such as storms, floods, droughts, earthquakes etc. This was one of the lessons learned after the hurricane Katrina in 2006 where it was revealed that evacuation plans did not include people without access to a vehicle (Reed 2006). The issue of environmental refugees has emerged strongly in the wake of climate change. Arguments are made to amend the Geneva declaration on war refugees in order to accommodate potentially tens of millions of climate refugees in the decades to come (Biermann and Boas 2007; Jerneck and Olsson 2008). On the other hand, poor people are often highly exposed to hazardous and toxic compounds due to low housing standards, economic dependence on income from waste and social dependence on untreated drinking water. The dumping of toxic waste across Abidjan (Cote D'Ivoire) resulting in 100 000 people in need of medical treatment and at least 16 people dead provides a striking and recent example of violation of environmental justice (James 2008).

Expertise and international contacts

The LEP-initiative at Lund University comprises complementary expertise from across the university. Below is a short description of the core group in the LEP-initiative.

LUCSUS, *Lund University Centre for Sustainability Studies*, is currently coordinating the initiative. LUCSUS was founded in 2000 as a cross-faculty organisation, providing an interdisciplinary arena for research and education on sustainability science. It was further strengthened by a 10-year Linnaeus grant from the Swedish Science Council in 2008. The objective of LUCSUS is to facilitate and promote cooperation across faculties and between researchers and PhD students from a broad range of departments. Research at LUCSUS focuses entirely on sustainability issues and research includes broad ranging themes such as the science/policy interface in connection with climate change; integrated water resources management; European agricultural policies; sustainable livelihoods in developing countries; and sustainability assessment methods and theory. Funding is generated through large collaborative EU projects under FP6 and FP7 and a recent Linnaeus Grant during 10 years. Researchers from LUCSUS participate in several international scientific assessments, such as IPCC, EFIEA and GEO. In addition to its own research staff (about 22 researchers) LUCSUS currently finances several researchers at other departments, including economic history; political science; social and economic geography; and sociology of law. LUCSUS has long term continuous cooperation with

the following developing countries institutes: ICRAF (World Agroforestry Centre, Kenya) and CIFOR (Centre for International Forestry Research, Indonesia) from the CGIAR network. These institutes play a pivotal role in the development of policies and measures for climate change responses in the context of the poor in poor countries. Other collaboration partners include the Centre for Analysis and Forecasting of the Vietnamese Academy of Social Sciences; Department of Sociology and Anthropology at the University of Dar el Salaam; Department of Geography, Department of Anthropology and the Institute of African & Asian Studies, at the University of Khartoum.

The Department of *Sociology* belongs to the Faculty of Social Sciences at Lund University and is one of the largest in the faculty with 12 professors and about 120 academic staff. By developing concepts and theories sociology seeks better and better explanations of human action and societal relations. Sociology is to a great extent a critical and reflective science. It has an important function of social criticism and often gives new and deeper insights into things that we have previously taken for granted. The research employs many different methods, such as questionnaires, interviews, participatory observation and textual analysis. The AFRINT project, with the aim of understanding the complexity of the current food crisis in Africa, is of particular interest to the LEP-initiative. AFRINT, funded by Sida, is coordinated by the Department of Sociology and involves researchers from the Department of Social & Economic Geography at Lund University as well as research partners from institutions in the following countries; Ethiopia, Ghana, Kenya, Malawi, Mozambique, Nigeria, Tanzania, Uganda and Zambia.

The Department of *Business Law* belongs to the School of Economics and Management at Lund University. The department covers several legal areas of study. In common, they are connected to economic questions with respect to the company, industry and the society. The department's research activities focus on the following areas of law: International trade, intellectual property, contract, procurement, corporate law, taxation, labour law, banking and insurance, accounting and auditing, environment and competition. Research is based on both traditional legal and social science methods, primarily focusing on the analysis of law, its effects and the underlying society's phenomenon. The purpose is to contribute to the theoretical framework and understanding of legal issues within the fields of law, business administration and other social science disciplines. The department has an extensive international network and research

cooperation. In this project we intend to also invite the Law School of Lund University and the Law School of Copenhagen University.

At the Institute for *Sociology of Law*, which belongs to the social science faculty at LU, the research group focuses on aspects of modern law in relation to sustainable development, asking the question: if and how the law is capable of handling new and previously unknown issues and problems, such as environmental and global issues. Due to the increasing differentiation of society, knowledge of complex issues increases, changes and become more specialised and complex. Research therefore has to analyse not only actors but also lifestyles and diffuse sources of knowledge. This challenges conventional regulation and demands new strategies. Based on this premise much empirical research on different levels have followed, including studies related to the links between legislation and agency in connection to planning and implementation processes, public participation, and corporate responsibility. Sociology of Law contributes in-depth understanding concerning policy and implementation of sustainability-related initiatives. There is a long tradition within research and education in Human rights issues at the Institute. LUCSUS collaborates closely with *Sociology of Law*, as obvious from several examples of double affiliations. Finally, *Sociology of Law* hosts the National Research Network for Education and Sustainable Development. In terms of international collaboration the partners below are some examples: a training programme on implementation of Child Rights and Sustainability, with 200 participants over six years from 25 countries in Africa, Asia and Latin America); research projects in India on Rights to Water; Joint work on Child & Human Rights with Faculty of Political Science at Istanbul University; research projects in China on legal aspects and the implementation of law together with a multitude of experts on China.

The department of *Philosophy* belongs to the Faculty of Humanities and Theology, but has a strong tradition of co-operating with researchers within other faculties, such as Law, Social Sciences, Medicine, and Polytechnics. The department consists of three units: Practical and Theoretical Philosophy, and Cognitive Science. Research and teaching is conducted within at least 25 distinct areas, ranging from highly specialized analytical philosophy such as trope theory and formal axiology, to applied and empirical research such as robotics and primate cognition. Political philosophy is of special relevance in the present context. This branch of philosophy studies fundamental concepts and questions concerning the state, liberty, distributive and

retributive justice, property rights, which rights the state should protect, what makes a government legitimate, and the nature and legitimacy of law. These questions, in turn, are related to more basic philosophical issues concerning the nature of value and social institutions.

The Department of *Law* is in practice identical with the Faculty of Law at Lund University. The Faculty of Law is one of the six faculties in Sweden which provide a complete academic training in law with the right to issue certificates of Master of Laws, Licentiate of Laws and Doctor of Laws. The research at the Faculty of Law is comprehensive and covers all main areas of law. However some fields of law have been especially given priority in the strategic planning. These fields are international law, civil law – the social dimension (including labour law) and law and development. The Faculty of Law has during the last decade been deeply involved in a development project financed by SIDA in Vietnam, “Strengthening Legal Education in Vietnam. This project is a joint project between the Faculty of Law in Lund, the Hanoi Law University and the Ho Chi Minh Law University. The Faculty of Law has an extensive international network and research cooperation with research institutes and universities both in Europe and in Australia and USA as well as also in China.

The division of *Social Medicine and Global Health (SMGH)* belongs to the department of Clinical Sciences at the Faculty of Medicine at Lund University. SMGH works with research, education, and knowledge transfer to the surrounding society in its area of expertise. Research issues concern macro level determinants of Population Health (distribution of financial resources, social capital, international migration etc), as well as meso level determinants of Population Health (work organization, family/parenting factors, housing arrangements, road traffic system, health care system, etc), moreover, micro level determinants/life-styles of Population Health (tobacco use, alcohol/drug use, diet/physical exercise, sexual and reproductive behaviour and rights, injury-prone behaviour, etc) and finally research on Public Health Policy Implementation. Our main national institutional research collaborators are: Karolinska Institute, Stockholm University, University of Göteborg and Malmö University. International research activities include SRHR, HIV/AIDS, mental health, health systems and community health and international institutional research collaborators include: EU (2 major projects; EUROTHINE and HEPRO/Healthy Cities; comprising of researchers from 20 EU-countries). Research collaboration and advisory role to 31 communities in 6 EU countries. JCQ International Work

Stress Network (comprising of collaboration between European, American, Asian and Pacific countries). University of Copenhagen, Division of Social Medicine, School of Public Health. (Research collaboration). Danish National Institute of Public Health. University of Massachusetts, Lowell, Department of Work Environment. Mbarara University of Science and Technology in Uganda.). Vellore Christian Medical College, India. Hanoi Medical School, Vietnam. SMGH also offers undergraduate courses in international health, a Sida-financed international training programme in Sexual and Reproductive Health and Rights with participants from 37 countries in Africa, Asia and Eastern Europe. SMGH is managing the International Master of Public Health Program at the Faculty of Medicine.

Tentative research and action agenda

The LEP-initiative has already started research cooperation on LEP. Below is a list of ongoing and planned activities.

- Establishment of a Scandinavian Research School on LEP;
This is a joint initiative that commenced in Spring 2008 between the universities in Lund, Stockholm (Faculty of Social Sciences) and Oslo (Senter for Utveckling och Miljö, SUM). The aim is to create a Scandinavian wide facility offering scientific and educational expertise to help making the LEP agenda operational in developing countries. A proposal for networking activities was submitted to Sida in May 2008.
- Life long learning;
Contacts have been taken with Sida and the Swedish ministry of foreign affairs on the possibilities of offering courses for government officials from developing countries (the ITP programme ⁴). Together with Lund University Education AB (LUEAB) we are preparing for such initiatives from Sida.
- Research conferences and workshops;
The first scientific event by the newly formed initiative at LU will be a conference in Lund in October. Several of the HLCLEP commissioners will participate in the conference, some in physical presence and some through international video link.

⁴ See link to the ITP programme at Sida: http://www.sida.se/?d=160&a=3615&language=en_US

- Action oriented research projects;
The LEP-initiative is planning to initiate combined research and action oriented projects in strategic fields in developing countries. Funding agencies for such action oriented research may range from private foundations (such as the Gates Foundation and Ford Foundation) to national and international aid organisations (such as Sida, GEF and other UN organisations).
- PhD courses, workshops and seminars;
The LEP agenda spans many scientific disciplines in virtually all faculties. The aim of the LEP-initiative is to provide PhD activities supporting researchers across Lund University and beyond. We will also plan to propose LEP as a core theme in the Universitas-21.

References

- Adhikari, B. (2005). "Poverty, property rights and collective action: understanding the distributive aspects of common property resource management." *Environment and Development Economics* 10(1): 7-31.
- Biermann, F. and I. Boas (2007). *Preparing for a warmer world: Towards a global governance system to protect climate refugees*. Global Governance Project Working Papers A. Amsterdam, Free University Amsterdam, IVM. 33.
- Ghai, D. (2003). "Decent work: Concept and indicators " *International Labour Review* 142(1): 113-146.
- Hammond, A. L., W. J. Kramer, et al. (2007). "The Next 4 Billion." *Innovations: Technology, Governance, Globalization* 2(1-2 %R doi:10.1162/itgg.2007.2.1-2.147): 147-158.
- Hertel, T. W. and A. Winters (2006). *Poverty and the WTO: Impacts of the Doha Development Agenda*. Washington DC, World Bank Publications.
- HLCLEP (2008). *Making the Law Work for Everyone*. New York, Commission on Legal Empowerment of the Poor. Volume 1: 95 pages.
- James, J. (2008). Ivory Coast's forgotten acrid waste. *BBC News*. London, BBC NEWS.
- Jerneck, A. and L. Olsson (2008). "Adaptation and the poor - development, resilience, transition." *Climate Policy* 8(2): 170-182.
- Reed, B., Ed. (2006). *Unnatural disaster: The Nation on hurricane Katrina*. New York, Nation Books.
- Schneider, F. (2007). "Shadow Economies and Corruption All Over the World: What Do We Really Know?." *Economics Discussion Papers* 2007(9): 66.
- Tschakert, P. and L. Olsson (2005). "Post-2012 Climate Action in the Broad Framework of Sustainable Development Policies: The Role of the EU." *Climate Policy* 5: 329-348.