

# Rural producer agency and agricultural value chains: What role for socio-legal empowerment?

Lorenzo Cotula, Emily Polack, Thierry Berger and  
Brendan Schwartz



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# Rural producer agency and agricultural value chains: What role for socio-legal empowerment?

Developing concepts for an action-research project

Lorenzo Cotula, Emily Polack, Thierry Berger and  
Brendan Schwartz

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## Acronyms and abbreviations

ARB	Agrarian Reform Beneficiary (the Philippines)
CAADP	Comprehensive Africa Agriculture Development Programme
CNCR	Conseil national de concertation et de coopération des ruraux (National Council for Rural Peoples' Dialogue and Cooperation, Senegal)
EPIC	Empowering Producers in Commercial Agriculture
FARMCOOP	Foundation for Agrarian Reform Cooperatives in Mindanao (the Philippines)
KHRC	Kenya Human Rights Commission
ICT	Information and communication technology
IIED	International Institute for Environment and Development
NGO	Non-governmental organisation
SEWA	Self-Employed Women's Association
UK	United Kingdom

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## Executive summary

Growing numbers of policies and programmes aim to integrate small-scale rural producers into agricultural value chains. But significant questions remain over how best to: recognise the possibly divergent visions, interests and constraints of various actors; address often substantial power imbalances; and ultimately promote agency among rural producers and their communities – that is, their ability to choose, act and influence realities around them.

Based on a review of trends in commercial agriculture and experience of supporting rural producers and communities, this report develops a conceptual framework to further understand, test and strengthen the contribution that socio-legal empowerment can make to enhance the agency of rural actors as they engage with, or are affected by, commercial agriculture.

### Key concepts: rural producer agency and socio-legal empowerment

New public policies and changing economic fundamentals have spurred private sector investment in commercial agriculture in low- and middle-income countries – from production to aggregation, processing and distribution. This trend presents both risks and opportunities for rural actors. Gaining access to local, national or global value chains could transform the livelihoods of millions of rural people. But ill-conceived approaches can lead to exploitation, expose producers to damaging commodity price cycles and drive inequality.

While public narratives have embraced the concept of “inclusive business” to promote more equitable agriculture, questions remain about what this “inclusion” means in practice. The key issue is *agency*: defined as the ability of small-scale rural producers and members of their wider communities to choose, act and ultimately effect change, whether individually or collectively.

Legal rights and processes provide one entry point for rural actors to exercise agency by interrogating and renegotiating the ways in which markets, policies and practices affect them. Possible pathways include seizing livelihood opportunities; attracting supportive investments; resisting adverse developments; reconfiguring contractual relations; promoting national law reform or obtaining redress. The notion of socio-legal empowerment describes this combination of recourse to law with various other strategies – from collective action to gaining greater business savvy.

The questions are many: can socio-legal empowerment help rural actors to *make informed choices*, for example about whether and how to engage with different value chains? Can it enable them to *take effective action*, for example to capture a

fair share of the value generated, or influence policy reform? Can it help rural actors to *effect the change they seek*, for example by amplifying their voices in value chains or policy processes? And what approaches work best for different producers, in different contexts, in relation to different value chains?

## The many faces of commercial agriculture

Commercial agriculture is changing. Agribusiness-driven value chains for agro-industrial commodities such as palm oil, rubber and sugar have expanded their geographic reach, and many large food retailers – from global players to smaller businesses – are engaging more directly with upstream segments of their value chains.

But while some public narratives emphasise the place of such “modern” value chains in agricultural pathways, this trend coexists alongside the continued relevance of local markets. Many small-scale farmers sell their produce via local traders, kinship relations and other social networks, and the relative importance of many local or regional markets is growing.

The extent to which agricultural value chains are formalised varies greatly, as do the contexts in which they are embedded, and their terms. But structural factors tend to place small-scale producers at a disadvantage vis-à-vis their suppliers and buyers, including:

- asymmetries in access to information, knowhow, finance and business relations;
- power imbalances deriving from concentration in activities upstream or downstream of farming; and
- the differentiated ability of value chain actors to influence public policy and respond to market fluctuations.

Under such conditions, integration into value chains does not automatically deliver hoped-for benefits, and can pose risks. Interventions to include small-scale growers in formal value chains tend to reach the better resourced, informed and connected farmers – and the more commercially minded ones. Elite farmers’ integration into formal value chains can have both positive and negative effects on other local livelihood strategies – for example, by creating employment opportunities on small-scale commercial farms, or polluting water sources. Women can suffer disproportionately, particularly if a transition to commercial crops triggers a spike in land prices, meaning they can no longer afford plots.

## Socio-legal empowerment for rural producer agency: mapping the terrain

Small-scale producers rely on many different strategies to approach negotiations with buyers and suppliers from a position of greater strength. These include adopting more effective farming techniques, developing rural infrastructure such as storage facilities, and accessing business incubation services.

Situated within this wider spectrum, socio-legal empowerment approaches involve more than enabling producers secure a fairer deal in monetary terms. The core idea is to enhance the processes that rural actors use to advance their vision of “development” – by making more informed choices, taking more effective action and bringing about change in value chains and public policies.

Nurturing agency in this way entails a focus on small-scale producers and members of their communities as the *key actors* – and recognising that they may mobilise support from a wide range of service providers to accomplish their goals.

A ‘socio-legal empowerment for agency’ perspective also requires approaches to take social differentiation into account.

Since communities do not uniformly participate in growing a certain commodity, different aspirations and possibly trade-offs may foster divisions. In such settings, multiple actors within the same community or value chain could mobilise different socio-legal empowerment approaches, perhaps to pursue divergent goals.

Documented approaches tend to target three interlinked spheres of action:

- **Understanding:** Rural actors acquire socio-legal knowledge and knowhow related to commercial agriculture – such as legal rights and applicable law, market analysis, and how to structure business or contractual relations. Information may be accessed through different channels, such as posters, videos, radio, village theatre, exchange visits, dialogues, training, social networks and information and communication technology (ICT).
- **Organising:** Rural people develop loose or more formal organisations for collective or coordinated action. These may be primarily economic – for example, aggregation mechanisms such as rural co-operatives to increase farmers’ negotiating clout; or primarily political, such as national federations working to reform laws that affect agriculture. Developing organisations may rely, at least in part, on socio-legal support.
- **Engaging:** Rural producers and communities engage with other actors, whether individually or collectively, to strengthen their position relative to agribusiness, including organisations that can provide necessary socio-legal support. Goals can be as diverse as securing land rights; (re)negotiating offtake agreements with buyers; advocating for policy or law reform, or going to court to seek redress.

Socio-legal empowerment may sustain one or more of the three spheres of action in a wide range of areas, reflecting the diverse types of relationships involved when rural actors engage with, or are affected by, commercial agriculture (see Table 1a).

**Table 1a. Socio-legal empowerment in agricultural value chains: illustrative activities (concise)**

<b>Spheres of action</b>	<b>Illustrative activities</b>
<b>Understanding</b>	<ul style="list-style-type: none"> <li>• Producers from a marginalised ethnic group attend trainings on relevant rights and applicable law, or on options for improved land access or more secure land rights</li> <li>• A co-operative of women farmers obtains advice on pricing arrangements and technical specs, or on issues affecting intra-household control over revenues</li> <li>• Value chain workers access information on labour rights, minimum and/or living wage, gender equality, or employment conditions</li> </ul>
<b>Organising</b>	<ul style="list-style-type: none"> <li>• Livestock rearers create effective producer organisations for aggregation and collective negotiation with buyers, or national apex organisations for policy influence</li> <li>• Farm workers develop trade unions at company, local, sector and national levels, or enhance women’s representation in union leadership</li> <li>• Women whose land access has been eroded by a transition to cash crops form an association to strengthen their representation in land governance institutions</li> </ul>
<b>Engaging</b>	<ul style="list-style-type: none"> <li>• Farmers cultivating small plots get support to negotiate increased land access (such as via private leases or government schemes), or to pool land via a co-operative</li> <li>• An informal coalition of women farmers links up with a specialised organisation and develops locally-controlled seed production, or establishes favourable arrangements with commercial input providers</li> <li>• Producers with the support of a lawyer negotiate offtake agreements with buyers, or challenge unfair terms in court</li> </ul>

### **What difference does socio-legal empowerment make?**

Although there is limited research on the impact socio-legal empowerment can have on systemic inequalities in value chains, the available evidence provides some initial pointers.

The extreme diversity of settings in commercial agriculture – from largely informal trading via local intermediaries, to tightly integrated global supply chains – means

that legal empowerment needs to be context-specific. Approaches should also be carefully calibrated to take account of – and address – the high degree of social differentiation in rural areas.

While the evidence base is patchy, case studies suggest that, in some contexts at least, socio-legal empowerment approaches *can* help deliver positive outcomes – including more balanced farmer-agribusiness contracts, and fairer value chain relations. While often locally “owned”, many initiatives will need to operate across national boundaries to work. Sustaining them may require alliances between actors with complementary expertise, who can act at different policy levels in different places.

From a socio-legal empowerment for agency viewpoint, the process that made these advances possible is more significant than the specific arrangements that resulted. Scaling cannot merely involve rolling out “successful” models – a given organisational configuration or a standardised template for contract farming, for example. Rather, it requires sustained investment in bottom-up arrangements that can facilitate the emergence of context-specific pathways, based on informed choice and action by the people concerned.

This emphasis on agency does not imply that the structural factors and the systemic issues at play – whether in value chains or policy arenas – are irrelevant. Rather, it promotes a grassroots approach to tackling them. At the same time, the magnitude of the systemic factors makes it important to share experiences internationally to enable more rural people to shape effective responses.

## Moving forward

In contrast to the vast literature on agricultural value chains and rural producer organisations, there is relatively little granular documentation of socio-legal empowerment or rigorous assessment of its relative effectiveness. There is also limited evidence on the conditions that made any advances possible; on the scalability or replicability of those advances; and on the extent and conditions under which socio-legal empowerment might redress structural imbalances. Rich research opportunities remain to assess what works, how and why.

From 2019 to 2021, a new action-research project will test socio-legal empowerment approaches in Malawi and Nepal, and feed lessons into law reform in the two countries and beyond.<sup>1</sup> In addition to promoting change in relevant local, national and international arenas, the project will provide an opportunity to critically assess socio-legal empowerment approaches and the conditions that enable them to sustain producer agency in agricultural value chains.

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1 See [www.iied.org/empowering-producers-commercial-agriculture-epic](http://www.iied.org/empowering-producers-commercial-agriculture-epic)

# 1. Introduction

## 1.1 Topic and rationale

New public policies and changing economic fundamentals have spurred private-sector investment in commercial agriculture in low- and middle-income countries – from production to aggregation, processing and distribution (Anseeuw *et al.* 2012, Borras *et al.* 2016, Cotula 2016, Cotula and Berger 2017). This trend presents both risks and opportunities for rural actors. Gaining access to local, national or global value chains could create opportunities for income generation, transforming the livelihoods of millions of rural people (Vorley and Thorpe 2014). However, ill-conceived approaches can lead to exploitation, expose producers to the perils of commodity price cycles and increase inequality among rural people (Vorley and Thorpe 2014).

In development circles, public narratives emphasise concepts such as 'inclusive business' (eg SNV and WBCSD 2008, Vorley and Proctor 2008, Woodhill 2016, Chamberlain and Anseeuw 2017, Rappoldt *et al.* 2017, German *et al.* 2018), and 'shared value' (Porter and Kramer 2011, Goldberg and Preble 2013, Diamond *et al.* 2014, Warshauer 2015, Kramer 2016), promoting investment models that aim to equitably include low-income groups. These narratives inform initiatives linking small-scale rural producers to firms that can supply agricultural inputs, or that process farm produce and bring it to markets (Woodhill 2016). Both the narratives and the initiatives tend to emphasise the win-wins that make all parties better off.

However, questions remain. For example, how can the different and possibly divergent visions, interests and constraints of the actors involved, and the trade-offs that can arise in the risks and benefits accruing to them, be satisfactorily recognised? How can the often substantial power imbalances that affect value chain relations be effectively addressed? Ultimately, what is the best way of supporting the agency of rural producers and members of their wider communities – that is, their ability to choose, act and influence the realities around them (Vorley *et al.* 2012a)?

Among possible strategies for sustaining agency, there are questions about legal rights and processes as an entry point for rural actors to interrogate and renegotiate, in the broadest sense, the ways in which markets, policies and practices affect their lives. This can take the form, for example, of seizing livelihood opportunities, attracting supportive investments, resisting adverse developments, reconfiguring contractual relations, promoting national law reform or obtaining redress. The notion of socio-legal empowerment describes this combination of recourse to law with other change strategies: from collective action to gaining greater business savvy.

The questions are many: can socio-legal empowerment help rural actors make informed choices, for example about whether and how to engage with different value chains? Can it enable them to take effective action, for example by capturing a fair share of the value generated or influencing policy reform? Can it help rural actors effect the change they seek, for example amplifying their voices in value chains or policy processes? Given the diversity of situations and social differentiation among rural people, which approaches work best for different small-scale producers, in different contexts and in relation to diverse value chains?

## 1.2 About this report

This report sets out the conceptual framework for an initiative to explore these questions – Empowering Producers in Commercial Agriculture (EPIC). EPIC aims to deepen understanding of socio-legal empowerment approaches to enhance the agency of small-scale rural producers and members of their wider communities as they engage with, or are affected by, commercial agriculture. Working in action-research mode, EPIC takes stock of existing evidence internationally while developing field-level socio-legal empowerment approaches in Malawi and Nepal.

Commercial agriculture is here broadly defined as a reliance on market arrangements for the sale of farm produce and the acquisition of agricultural inputs (Poulton 2017). Agricultural commercialisation encompasses diverse trajectories and production models, including different balances of small-, medium- and large-scale farming. The focus here is on small-scale rural producers who engage in agriculture primarily to sell their produce. This encompasses wide-ranging economic activities, from farming to livestock rearing. Agricultural value chains can be very diverse, ranging from local trading to global value chains.

There is no universal definition of small-scale rural producers, partly due to the extreme diversity of farming structures and social and agroecological contexts. The significance of a given scale of production varies in different contexts. Also, landholding size does not always fully correlate with other indicators of scale, such as production, revenues or hired labour (Khalil *et al.* 2017). This report follows the broad definition used by the High-Level Panel of Experts of the Committee on World Food Security, which framed ‘smallholding’ as *“an agricultural holding run by a family using mostly (or only) their own labour and deriving from that work a large but variable share of its income, in kind or in cash”* (HLPE 2013, footnotes omitted).

Broadly speaking, agency is an actor’s ability to make choices, take action and effect change, whether individually or collectively. In the context of commercial agriculture, small-scale rural producers and members of their wider communities may deploy their ability to choose, act and influence in order to sustain wide-ranging conduct – from pursuing new market links to resisting top-down developments (Hall *et al.* 2015; Wise 2018). Agency would include, for example, the producers’ ability to assess and seize livelihood opportunities, negotiate the terms of their value

chain participation, respond to stresses such as resource scarcity and climate change, and influence policy and law reforms.

In the real world, rural actors' ability to choose, act and influence is far from unlimited. Agency must typically come to terms with structure: that is, the political, economic, social, ecological, geographical, legal, ideational and other contextual factors that shape options for action (Hudson and Leftwich 2014). With regards to commercial agriculture, structure may encompass economic factors and power relations in the value chain, and public policies affecting the ways the chain operates. Structure is not immutable, and effective agency can cause structural factors to shift (eg via policy reform).

Depending on the context, small-scale producers rely on diverse strategies to approach agricultural value chains from a position of greater strength. These include the uptake of more effective farming techniques or information management systems (which can increase farmers' productivity and business interest in working with them); the development of rural infrastructure such as storage facilities (which can enable farmers to preserve products for longer and reach more distant markets); and access to business incubation services, including research and development, technology and credit linkages (which can catalyse the development of farmer-owned enterprises) (see eg Macqueen and deMarsh 2016).

Within this wider context, the report focuses on socio-legal empowerment as a subset of approaches, recognising that these will often form part of broader strategies. The literature on socio-legal empowerment in agricultural value chains is relatively small, and the evidence base patchy. Rather than providing definitive answers, the report aims to develop a conceptual framework to help guide EPIC activities. This framework is expected to evolve in light of the insights gained through implementing EPIC.

The remainder of the report is structured as follows. Section 2 locates socio-legal empowerment in the context of trends that affect the place of rural actors in agricultural value chains. Section 3 identifies a few common approaches in existing experiences with socio-legal empowerment being used to sustain the agency of rural producers and communities in agricultural value chains. The conclusion summarises key insights and outlines next steps.

## 2. Small-scale rural producers and agricultural value chains

This section briefly reviews trends affecting agricultural value chains in low- and middle-income countries, from local trading through to global value chains. It examines the forces driving agricultural commercialisation, and the factors of exclusion in those processes. It also discusses the notion of agency and raises questions about the place of socio-legal empowerment in sustaining the agency of rural producers and communities.

### 2.1 The many faces of commercial agriculture

Processes of agricultural commercialisation are difficult to measure accurately due to data constraints and the highly heterogeneous nature of the transitions at play. A brief review of the evidence points to multiple and partly diverging trends.

Following long-term processes that date back to the colonial era, agribusiness-driven value chains for agro-industrial commodities such as palm oil, rubber and sugar have expanded their geographic reach.<sup>2</sup> The nature of these value chains varies with context and evolves over time, including with regard to the diverse and changing roles of small-, medium- and large-scale farming in supplying agricultural produce, and of domestic and international demand in sustaining market outlets.<sup>3</sup>

In addition, many large food retailers – from global players to businesses with more limited spheres of action in national and regional urban centres – have become more directly engaged with the upstream segments of their value chains, increasingly sourcing produce from intermediaries closely connected to the growers (Reardon and Berdegué 2002, Reardon *et al.* 2009, Barrientos *et al.* 2016, Michelson *et al.* 2018).

However, while some public narratives emphasise the place of such ‘modern’ value chains in agricultural development pathways, these trends coexist alongside the continued relevance of local markets and ‘informal’ value chains in low- and middle-income countries, as many small-scale farmers sell their produce via local traders and intermediaries (Vorley *et al.* 2012a). In fact, the relative importance of local and regional markets has grown in many places.

In West Africa, for example, regional food markets were found to dominate economic opportunities, while the relative share of global (ie extra-regional) markets had declined considerably since the early 1960s (Allen and Heinriqs 2016). In

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2 Consider for example the expansion of oil palm in Southeast Asia and more recently Central and Western Africa and Latin America.

3 See eg Pacheco *et al.* (2017) and CERES (2018) on palm oil.

addition, while informal trading is inherently difficult to quantify, in many countries it is estimated to account for the lion's share of commercial agriculture, including the bulk of the farm produce sold in the growing urban centres.<sup>4</sup>

In these evolving contexts, casualisation of agricultural labour, development of contract farming, and work on plantations to supplement small-scale farming, all tend to blur divides between wage employment and independent farming (De Schutter 2009). Meanwhile, diversified livelihood strategies span urban and rural worlds, with rural households relying on diverse combinations of small-scale farming, off-farm rural activities and remittances from urban centres (Tacoli and Vorley 2015).

Social differentiation in rural areas – including that based on income, wealth, status, gender and age – means that engagement with commercial agriculture takes diverse forms, and leads to differentiated outcomes, for different types of small-scale rural producers.<sup>5</sup> Estimates suggest that interventions to integrate small-scale producers in formal value chains tend to reach the top 10% of farmers. These are the ones who are better resourced, informed and connected, as well as being more commercially minded, enabling them to compete on the market (Vorley *et al.* 2012a).

Less formalised value chains facilitated by local traders, kinship relations and other social networks are often more relevant to the remaining small-scale producers. These exist within diversified livelihood strategies that can affect the scope and modalities of engagement with commercial agriculture (Vorley *et al.* 2012a).

Elite farmers' participation in formal value chains can have both positive and negative effects on these livelihood strategies, for example by creating employment opportunities on small-scale commercial farms, increased land competition and values, or polluting water sources (Wiggins and Keats 2014). These effects can have gendered dimensions, for example where transitions to commercial crops and associated increases in land values erode women's access to land (Dancer and Tsikata 2015).

## 2.2 Drivers of agricultural commercialisation: market forces and public policies

These diverse developments in commercial agriculture respond to both market forces and public policies. The penetration of agribusiness-driven value chains is partly linked to a global demand for agricultural commodities, in turn associated with the mega-trends that are reshaping the global economy. These range from demographic growth and urbanisation to ongoing shifts towards meat-rich diets (OECD and FAO 2016, 2017). In addition, concerns about quality, reliability,

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4 For example, a study found that, in the greater Beijing area, only 4% of horticultural products were procured via formal supply chains (Vorley *et al.* 2012a).

5 On these debates, see eg Dorward *et al.* (2009), Smalley (2017), Seas of Change (n.d.).

in-time delivery and traceability of supplies have led many processors and retailers to increase vertical coordination in their value chains (Deloitte 2013).

At national and regional levels, rural–urban transitions and growing incomes are shifting consumption habits, with repercussions for value chains presenting varying degrees of formalisation. Meanwhile, developments in ICT are helping connect small-scale producers to markets, as well as facilitating the dissemination and uptake of successful approaches (Pujahari *et al.* 2015).

On the policy side, the recognition of the role farming can play in poverty reduction has underpinned renewed political momentum to support agriculture. This includes policies that favour large-scale agribusinesses, including trade, investment, land, seed and tax legislation (Vorley *et al.* 2012b). However, it also encompasses policies and programmes aimed at increasing the productivity of small-scale agriculture, and linking producers to markets (World Bank 2007, Seville *et al.* 2011).

These initiatives have emerged not just at the country level but at the supranational level as well. This is illustrated in Africa by the role of the Comprehensive Africa Agriculture Development Programme (CAADP) and related National Agriculture Investment Plans in promoting smallholder integration into commercial agriculture. Such initiatives have been supported by donor programming that has adopted value chain approaches in order to solve economic development challenges (Gereffi 2014).

This recognition of the importance of small-scale producers to agricultural systems is significant, as it follows decades of policies that tended to neglect agriculture (Lele 1989, World Bank 2005, Bello 2008). There is, however, considerable diversity in policies towards small-scale farming. This diversity partly reflects context-specific political settlements, including the different ways in which national elites mobilise political support in rural areas (Poulton and Chinsinga 2018), as well as the varying influence of national and global businesses in agricultural policy arenas.

Some governments have taken steps to help small-scale producers access local and national markets or processing centres, for example by investing in rural market infrastructure, and have also restricted imports to stimulate domestic production (Vorley and Lançon 2016). Elsewhere, public policies primarily respond to the needs of the growing urban population, favouring the interests of consumers over those of rural producers (Vorley and Lançon 2016), or the needs of traders and processors.

In linking producers to markets, many public policies have prioritised global value chains over local, national and regional markets. In doing so, they have identified potentially lucrative income-generating opportunities, but also possibly neglected market options that would present advantages for certain small-scale producers (Vorley *et al.* 2012a).

### 2.3 The place of small-scale producers: from inclusion to agency

Depending on the circumstances, engaging in commercial agriculture brings farmers into all kinds of arrangements with the downstream buyers of their crops, as well as with upstream providers of agricultural inputs and services. The institutional configurations are extremely diverse, depending on the actors and the value chain, and its degree of formalisation.

At one end of the spectrum, highly formalised arrangements promote close coordination between small-scale rural producers and agribusinesses big and small. One of the most oft-cited examples of these agreements is contract farming. Although there is tremendous variation in contract farming models, the term usually describes some form of pre-agreed supply agreement between farmer and buyer.

Typically, a farmer agrees to grow produce of a specified quantity and quality. The buyer, meanwhile, commits to providing inputs such as seeds, fertilisers and pesticides, possibly on credit, and to buying the farmer's produce. Prices may be fixed in the contract or determined by spot-market prices (Glover and Kusterer 1990, Eaton and Shepherd 2001, Vermeulen and Cotula 2010, FAO 2012, UNIDROIT *et al.* 2015, Viinikainen and Bullón Caro 2018).

At the other end of the spectrum, farmers and buyers enter into spot transactions with no strings attached. It is estimated that spot transactions account for the bulk of staples in sub-Saharan Africa, though in informal trading these transactions may be partly embedded within wider social relations, including informal credit or kinship links (Vorley and Lançon 2016). In some low- and middle-income countries, there is also limited but growing experience with structured markets, for example via the development of agricultural commodities exchanges (Jayne *et al.* 2014, IFC 2017).<sup>6</sup>

This 'inclusion' of small-scale rural producers in agricultural value chains does not mean a value chain is 'inclusive'. Inclusiveness depends on the terms of inclusion and the ways in which they are established, taking into consideration core features of the relationship such as who controls which assets, who can influence which decisions, and how risks and returns are distributed between different actors (Vermeulen and Cotula 2010, Chamberlain and Anseeuw 2018, German *et al.* 2018). Inclusiveness also interrogates social differentiation ('inclusive for whom?'), because any business arrangement is likely to produce differentiated outcomes for different groups, for example women and men, or higher- and lower-income farmers (German *et al.* 2018).

Considering agency involves an even more radical shift in perspective, one that moves away from considering rural actors as passive 'beneficiaries' (or 'victims') of their inclusion in agricultural value chains, and towards exploring their ability to choose, act and ultimately shape value chain relations from the bottom up. An agency lens interrogates the relationships between actors located in different

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6 See also Rashid (2015) for a critical review.

segments of the value chain, but also social differentiation among rural producers and within their wider communities. It recognises that different types of farmers and rural actors may have different and possibly divergent economic interests and development aspirations.

## 2.4 Power relations and value capture in agricultural value chains

In practice, structural factors in agricultural value chains affect rural people's scope to exercise agency. The distribution of power in the value chain is a key issue, and it can vary considerably. An oft-cited classification distinguishes, within a wide spectrum of configurations, buyer-driven models – where downstream processors and distributors primarily shape the way the value chain works and have considerable power to set prices – from producer-driven models, where farmers wield far greater negotiating power and autonomy (Gereffi 1994).

The picture is further complicated by the fact that, in agriculture, relatively few lead firms trade directly with small-scale producers. Instead, commercial agriculture is mostly mediated by a series of intermediaries. Value chain terms are therefore a function of relations not just between producers and a downstream buyer, but with layers of traders and intermediaries (Vorley and Thorpe 2014).

Partly reflecting this diversity in the structure of agricultural value chains, the literature points to widely diverse value chain arrangements, and to both positive and negative socio-economic outcomes for participating producers and wider communities. It suggests that the potential benefits available to small-scale producers of entering agricultural value chains do not materialise automatically, nor are they distributed evenly. In fact, ill-conceived integration in commercial agriculture can expose small-scale producers and rural communities to significant risks and exploitation.

To start with, producers may freely choose to participate in a given value chain, but the information or analysis available to them may be incomplete (a phenomenon economists refer to as 'bounded rationality') (Zuwarimwe and Mbaai 2015). Typically, crop options are also restricted, because sustaining the family within a monetised economy may require producers to earn minimum levels of cash income, and because cash crop options are partly a function of agroecological conditions, demand structure, and available channels to markets and processing. In extreme cases, monopolistic conditions or pressures from governments can result in the coercive integration of farmers into commercial value chains (German *et al.* 2018).

The heterogeneity of situations and socio-economic outcomes is also apparent with regards to the terms of inclusion. Take the case of contract farming. A vast body of research over the years has yielded mixed findings, reflecting not only great diversity across places and value chains, but also evolutions in contract farming over time, such as the expanded role of the private sector following the privatisation of parastatals in many countries (Prowse 2012). The evidence points to success

stories where growers managed to increase their income by addressing two of the main challenges many small-scale farmers face: enhancing productivity via improved access to inputs and advice, and accessing markets.

However, the evidence also points to situations of unfair pricing, farmer indebtedness and indirect land dispossession, as well as more generally to extremely variable arrangements and outcomes that prevent conclusive generalisations.<sup>7</sup> Positive and negative experiences can coexist in the same time and space, reflecting social differentiation among small-scale producers and their varying ability to make contract farming work for them.<sup>8</sup> Looking beyond contract farming, comparative assessments of different approaches to agricultural commercialisation highlight the weight of contextual factors in influencing the implementation and outcomes of those approaches (Hall *et al.* 2017).

At the macro level, evidence suggests that the distribution of value in certain value chains is increasingly unfavourable to small-scale rural producers. In Canada, for example, farmers' net income was reported to have declined considerably between 1926 and 2016, with a sizeable and growing share of gross farm revenue being captured by agribusinesses upstream and downstream of agricultural production (eg input suppliers, downstream buyers) (Qualman 2017).

Comparably long-term analyses for low- and middle-income countries are in short supply. However, the literature does point to downstream buyers (eg global brands, large retailers) having captured a growing share of the value across different commodities over the period 1996 to 2015, while the value captured by workers and producers decreased over the same period (Alliot *et al.* 2017). Concerns about skewed value capture have also been raised with regards to supermarket-driven value chains (GRAIN 2018, Oxfam International 2018), while significant value capture by local traders and intermediaries in the more informal value chains has long been documented (IICA 2014, Quiroz Estrada 2017).

These effects may be partly linked to structural features of the value chains. Besides asymmetries in value chain actors' access to information, knowhow, finance and business relations, oligopolistic or even monopolistic conditions upstream or downstream of farming, contrasted with the often extreme fragmentation of primary production, would tend to strengthen the market power wielded by the farmers' suppliers and buyers (De Schutter 2010, UNCTAD 2016, Alliot *et al.* 2017). This includes concentration in the production and marketing of farm inputs such as seeds and fertilisers, and in the processing and distribution of agricultural commodities.

The often significant transaction costs and inherent risks involved in working with many small-scale producers can also affect value chain dynamics, as can the

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7 For reviews of the evidence on contract farming, see Oya (2012), Prowse (2012), Wiggins and Compton (2016), and for comparative research in Ghana, Kenya and Zambia, see Hall *et al.* (2017).

8 For example, Ton *et al.* (2018) found that the poorest farmers are rarely included, and that contract farmers tend to be significantly larger or richer than the average farmer in the region. See also Hall *et al.* (2017).

differentiated ability of value chain actors to respond to market fluctuations. While large downstream players have often proved capable of buffering themselves and protecting their share of value, producers are more exposed to changes in input costs and commodity price volatility (Alliot *et al.* 2017).

The structural factors affecting value chain relations may be a function of features inherent to the value chain (for example, crop perishability), but also of policy choices that governments have made in areas such as trade, competition, investment and subsidies. The differentiated ability of value chain actors to influence policy can affect patterns and outcomes in commercial agriculture. The influence of small-scale producers varies depending on the strength of advocacy-oriented farmer organisations and the overall political settlement, while input suppliers, traders, processors and distributors can often exert considerable influence over public policy via their access to government authorities.<sup>9</sup>

Considering social differentiation further complicates the picture, with comparable forms of integration into value chains playing out differently in different places and creating different outcomes for different sections of society.<sup>10</sup> Such differentiated outcomes can intersect with trends in rural inequality if a small number of commercially oriented farmers capture the benefits of value chain participation and externalise the costs. Some studies suggest that producers entering a value chain with greater assets to begin with are usually better positioned to reap the benefits of greater market access.<sup>11</sup>

Certain groups tend to face higher levels or risks of exclusion, or adverse inclusion. In many contexts, women often face specific constraints with regard to control over land and productive assets, recognition in markets and business relations, and influence in decision making (Daley 2011). Research highlights the gendered nature of value chain relations, for example finding that workers capture a greater share of value in sectors where men are more prevalent in the work force (Alliot *et al.* 2017). Youths may also struggle with accessing sufficient land to participate in and profit from farming, and legacies of marginalisation may underpin a low appetite for producer organisation – even farming itself – amongst younger generations (Vorley *et al.* 2012a).

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9 For political economy analysis of commercialisation processes, see Poulton and Chinsinga (2018).

10 For example, Hall *et al.* (2017) found that, in Kenya, outgrower schemes provided an important source of income and autonomy for poor women, but were not attractive to better-off small-scale rural producers, especially men, because they did not present opportunities for any significant accumulation. A different picture emerged in Zambia, though, where mostly male outgrowers in the sugar sector earned considerable incomes (including from being shareholders in the venture), while women and the young were largely excluded.

11 For example, Larson (2005) found that, in cotton-producing households in Tanzania and Zimbabwe, higher yields – and therefore greater income – were correlated with access to farmland, draught power and manufactured inputs; while Vorley *et al.* (2012a), highlight the importance of producer assets to both enabling participation and reaping the benefits. See also Ton *et al.* (2018).

## 2.5 Can socio-legal empowerment help sustain producer agency?

The skewed power relations and the uneven distribution of costs and benefits in agricultural value chains raise questions about most effective strategies for sustaining the agency of small-scale rural producers and members of their wider communities. As structural factors linked to market forces and public policies shape the nature and terms of agricultural value chains, what is the scope for actors located in the more vulnerable segments of the chain to exercise agency, whether individually or collectively? What strategies can most effectively support their efforts?

A wide range of approaches have emerged. These include, for example, market systems development approaches that consider empowering producers as an element within a set of interventions to support development of the value chain (Practical Action n.d.); bottom-up business incubation that supports the emergence of producer-owned small-scale businesses (Macqueen and Bolin 2018); and political mobilisation to shift public policies in favour of small-scale producers (McKeon *et al.* 2004, Diouf 2015, Friis-Hansen *et al.* 2018).

Socio-legal empowerment initiatives are situated within this wider range of approaches, supporting small-scale producers and members of their wider communities in (re)negotiating the complex dimensions of agricultural value chains. A focus on the 'legal' aspects of small-scale producers' participation in commercial agriculture has been shown to be a powerful process (Ton and Proctor 2013), yet an explicit look at the role of, and possibilities for, socio-legal empowerment is yet to be fully explored.

A socio-legal empowerment lens approaches agency in both its economic and political dimensions, interrogating the place of small-scale producers as actors in the value chain, but also as agents in public policy making. A number of relevant questions can be asked in relation to this, including: can socio-legal empowerment help rural actors make informed choices, for example about whether and how to engage with different business players and value chains? Can it enable them to take effective action, for example in capturing a fair share of the value generated or in influencing policy reform? Can it help rural actors to effect the change they seek, for example by amplifying their voices in value chains or policy processes?

Given the significance of social differentiation in shaping patterns and outcomes in commercial agriculture, relevant questions also include: can socio-legal empowerment help address inequalities and drivers of exclusion in both rural communities and agricultural value chains? What approaches work best in different contexts, in relation to diverse value chains, and for different types of small-scale rural producers?

Further, relating agency to socio-legal empowerment raises questions about the interplay with the structural factors affecting commercial agriculture. In several

instances, and in spite of skewed power relations, concerted action and strategic alliances have enabled small-scale producers to make significant gains in economic and political arenas (Rutten *et al.* 2017). Under what conditions, if any, can socio-legal empowerment help to sustain these efforts? How to translate a solid understanding of structural factors into better informed and more effective socio-legal empowerment approaches? What are the limits of socio-legal empowerment?

### 3. Socio-legal empowerment in agricultural value chains: towards a conceptual framework

This section considers socio-legal empowerment experiences in sustaining the agency of small-scale producers and members of their wider communities as they engage with, or are affected by, commercial agriculture. It identifies experiences based on their substantive relevance, regardless of whether their initiators framed them in terms of agency, socio-legal empowerment or other perspectives. The section examines some emerging approaches and considers how practical experience might help inform a conceptual framework for understanding, testing and strengthening the contribution of socio-legal empowerment to producer agency.

#### 3.1 Socio-legal empowerment to sustain agency: actors, approaches and arenas

Legal empowerment is about people harnessing the law to pursue what they value (Cotula with Berger 2017).<sup>12</sup> The more rounded notion of *socio-legal* empowerment considers a wider range of adjacent capacities and change strategies, from collective action to being business savvy. In effect, socio-legal empowerment uses the law as an entry point for rural actors to interrogate and renegotiate the ways in which markets, policies and practices affect their lives.

Thus defined, socio-legal empowerment is fuzzy at the edges and overlaps with other spheres of action, from politics to business support. Also, legal analyses have documented shortcomings in national and international law that compound power imbalances among rural actors and large businesses (see eg Cotula 2011, 2017). Therefore, socio-legal empowerment involves not only pushing the boundaries of available law and rights, but also scrutinising, challenging and ultimately changing unjust laws.

When applied to agricultural value chains, socio-legal empowerment may result, for example, in farmers renegotiating contractual relations to get better prices. However, linking socio-legal empowerment to agency involves more than producers securing a fairer deal in monetary terms. Rather, it refers to the processes through which rural actors can advance their own vision of 'development' by making more informed choices, taking more effective action, and more effectively bringing about change in value chains and public policies.

This socio-legal empowerment lens is relevant to the full range of agricultural value chains, including those at the more informal end of the spectrum. While often more accessible to small-scale producers, informal trading can also present a darker

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12 For broadly comparable definitions, see also Feruglio (2017), Golub (2010), Goodwin and Maru (2014).

side, including corruption, lack of transparency, cartels and monopolies, unfair terms and food safety problems (Vorley *et al.* 2012a). Socio-legal empowerment approaches are likely to differ across the spectrum of informal to more formalised value chains, as well as in relation to diverse contextual settings.

The link to agency entails focusing on small-scale producers and members of their wider communities as the key actors of socio-legal empowerment, including their mobilising support from a range of service providers to achieve their goals. Small-scale producers encompass a range of diverse actors, reflecting social differentiation along income, wealth, status, age, gender, ethnic and other lines.

Additionally, as a rural community may not uniformly participate in producing a certain commodity, different aspirations and trade-offs may exist between those who participate in a particular value chain and others. One example of this is where small-scale, commercially oriented agriculture exacerbates water scarcity for farmers, fishers or herders producing for local markets, or for households using water for domestic consumption (Ulrich 2014).

Similarly, farm workers – including casual labourers and family members – may seek to renegotiate their relationship with the small-scale, commercially oriented farmers who employ them, while women may seek to renegotiate their relations with husbands and male relatives. In such socially differentiated settings, multiple actors within the same community or value chain could mobilise socio-legal empowerment approaches in pursuit of different and possibly divergent goals.

Socio-legal empowerment is best conceived of as rural producers and communities taking action to empower themselves. However, where major power imbalances exist, approaches often involve accessing some form of external support. Actors that can provide such support include non-governmental organisations (NGOs); government agencies; donors financing support services; and businesses ready to engage constructively and possibly support empowerment processes. Depending on the circumstances, support may come from highly qualified specialists such as lawyers or economists, through to grassroots actors such as community paralegals, with many approaches mobilising both expert and grassroots support.

The processes by which empowerment can happen are complex and manifold. There are several possible ways to classify these processes, and the boundaries of such classifications are typically blurred. However, documented socio-legal empowerment approaches aimed at sustaining agency in commercial agriculture tend towards three interlinked spheres of action:

- **Understanding:** rural actors acquire socio-legal knowledge and knowhow to help inform their choices on issues related to commercial agriculture: for example, legal rights and applicable law, market analysis, and how to structure business or contractual relations. Information may be accessed through different channels, such as posters, videos, radio broadcasts, village theatre, exchange visits, dialogues, training, social networks and ICT.

- **Organising:** rural people develop organisations for collective or coordinated action. Organisations may involve varying degrees of formalisation. They may be primarily economic – for example, aggregation mechanisms such as rural co-operatives to increase farmers' clout in negotiations with buyers – or primarily political, such as national federations working to reform laws that affect agriculture. Developing organisations may rely, at least in part, on mobilising socio-legal support.
- **Engaging:** rural producers and communities engage with other actors, whether individually or collectively, to alter their position in relation to commercial agriculture, and where relevant partner up with organisations that can provide necessary socio-legal support. Actions can be as diverse as securing land rights, (re)negotiating offtake agreements with buyers, advocating for policy or law reform, or going to court to seek redress.

These three spheres are in no way discrete or mutually exclusive. In real-life contexts, lines are often blurred, and the spheres often interrelated. Socio-legal empowerment approaches may sustain one or more of the three spheres of action, in relation to a wide range of issues reflecting the diverse types of relationships that rural actors develop as they engage with, or are affected by, commercial agriculture (see Table 1b).

The next few sections further discuss the three spheres, providing a brief overview and a short case study for each sphere. The case studies were selected for their ability to illustrate the actions that can underpin each sphere, rather than simply 'success stories' where wholly successful outcomes were achieved. It is recognised that, within each approach or intervention, effective action in one space may sit alongside challenges and setbacks in another.

### 3.2 Three spheres of action: understanding

Information is power, and an indispensable element for rural actors looking to make effective choices, including whether to engage in commercial agriculture and under what terms, as well as how to resist the adverse effects that agricultural commercialisation can cause. Yet, information asymmetries often sustain power imbalances in value chains and policy arenas. Therefore, improved access to information is often an important element in strategies for rural producers and members of their wider communities to exercise agency.

Wide-ranging types of information may be relevant, and much depends on the situation. Farmers may need knowledge about their legal rights and applicable law; prices and market systems; and available options for contractual arrangements. They may also need knowhow about ways to advance their interests most effectively, for example how to access land and secure their land rights; structure locally controlled enterprises; negotiate contracts with other actors in the value chain; and influence law reform.

Table 1b. Socio-legal empowerment in agricultural value chains: illustrative activities (expanded)

Illustrative thematic areas					
	Land	Inputs	Labour	Offtake	Finance
<b>Understanding</b>	Producers from a marginalised ethnic group attend training on relevant rights and applicable law, or on options for improved land access or more secure land rights	Farmers access information on their rights to seeds and traditional knowledge, and on input supply chains and pricing	Value chain workers access information on labour rights, minimum and/or living wage, gender equality, or employment conditions	A co-operative of women farmers obtains advice on pricing arrangements and technical specs, or on issues affecting intra-household control over revenues	Farmers participate in lesson-sharing events on how diverse producer types can access credit or insurance
	Women, young or tenant farmers enlist support to establish a local association to improve their land access, or a national platform to advocate for land law reform	Farmer groups exchange experience and provide mutual support on establishing informal arrangements for accessing inputs, or more formalised associations and co-operatives	Farm workers develop trade unions at company, local, sector and national levels, or enhance women's representation in union leadership	Livestock rearers create effective producer organisations for aggregation and collective negotiation with buyers, or national apex organisations for policy influence	Women farmers partner up with an NGO to establish a mutual savings scheme
<b>Spheres of action</b>	Women whose land access has been eroded by a transition to cash crops form an association to strengthen their representation in land governance institutions	Community members adversely affected by pollution from agro-chemicals create an association	Union leaders partner up with a service provider to monitor employers' compliance with applicable law and standards, or to help workers access redress	Producers with the support of a lawyer negotiate offtake agreements with buyers, or challenge unfair terms in court	Livestock rearers access technical expertise for their dialogue or negotiations with weather insurers
	Farmers cultivating small plots get support to negotiate increased land access (eg via private leases or government schemes), or to pool land via a co-operative	An informal coalition of women farmers links up with a specialised organisation and develops locally-controlled seed production, or establishes favourable arrangements with commercial input providers			
<b>Engaging</b>					

Many people not involved in agricultural value chains are affected by them, and they may need information as well, for example about the polluting effects of agrochemicals, relevant regulations, and available remedies. Further, social differentiation among rural producers and communities tends to translate into differentiated information needs.

For example, women may seek different knowledge and knowhow than men, due to gender-differentiated roles in agriculture. Further, there is significant differentiation among women themselves, based on income, age and marital status (Oxfam International 2018). Some initiatives raised awareness among women and men regarding challenging socio-cultural norms and sexual harassment that undermined women's participation as workers or traders in agricultural value chains, for example in Ethiopia, Tanzania and Uganda (TPAWU 2011, Aman n.d., Women Working Worldwide n.d.).

The channels for accessing knowledge and knowhow are varied, as are the degrees of depth and reliability. Informal channels such as kinship networks are often an important source of market information. Campaign materials, radio broadcasts and ICT platforms can enable large numbers of farmers to access basic information on wide-ranging issues. Face-to-face trainings, exchange visits, dialogue processes and learning sessions can provide smaller groups with more in-depth insights, enabling rural actors to tailor and apply new information to local contexts.

Diverse approaches have emerged amongst service delivery organisations (eg government extension services, co-operatives, NGOs) to support such learning for empowerment. These combine insights from pedagogic and participatory approaches (eg Archer and Cottingham 1997, Phnuyal *et al.* 1998, Harvey *et al.* 2013, Moschitz *et al.* 2015) and add a legal literacy dimension to agronomic and business trainings, as well as 'farmer field schools'.<sup>13</sup> At the more professionalised end of the spectrum, the leaders of a national federation of producer organisations may seek specialist insight in areas relevant to policy or law reform (Herbel *et al.* 2012). Technical guides can sustain such learning processes (eg Knight *et al.* 2018, Szoke-Burke *et al.* 2018).

Access to knowledge and knowhow is often embedded in wider processes to help small-scale producers and members of their wider communities act on the information acquired. These wider processes may include 'organising' and 'engaging' activities. This may involve supporting dialogue among value chain actors, with awareness of legal rights and market prices being used to strengthen the position of rural producers (see Box 1).

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<sup>13</sup> The farmer field school approach emphasises community cohesion, social inclusion and farmer empowerment, which may be relevant in the context of opportunities provided by commercial value chains.

**Box 1. Kenyan green bean farmers leverage information and supply chain dialogue to get a better deal**

In Kenya's Meru county, many small-scale farmers sell green beans to an international exporter that has a contract with a large grocery retailer in the UK. Faced with value chain issues that affected their lives, a group of farmers obtained support from the Kenya Human Rights Commission (KHRC), which is a national NGO, and from UK-based organisation Traidcraft Exchange.

Through a series of learning sessions, the KHRC provided the farmers with information about their rights, grievance handling, learning from demonstration plots and ways to engage value chain actors. To facilitate dialogue, the KHRC and Traidcraft Exchange also convened yearly 'ways of working' meetings between the exporter, the UK retailer, farmers' groups and representatives of packhouse and field workers. Some of the farmers and packhouse workers travelled to the UK, where they met representatives of the retailer and enhanced their understanding of the consumer end of the value chain.

The information and dialogue enabled the farmers to explore with their buyers collaborative solutions to value chain problems. For example, the growers improved their cultivation practices through increased access to agricultural extension and training. The exporter agreed to include minimum volume and pricing arrangements in its contracts with the farmers, provide swifter feedback on quality in case of rejections, and pay farmers within two weeks for delivered beans. The retailer changed the trimming specification and consumer pack design, which indirectly resulted in farmers being paid more.

As a result of the new arrangements, farmers experienced higher and more predictable incomes, and have a stronger voice in the value chain. These benefits strengthened the relationship between the growers and their buyers, increasing security of supplies for the UK retailer.

Sources: KHRC (2014, 2016, 2017), Kambo and Kariuki (forthcoming), [www.khrc.or.ke](http://www.khrc.or.ke) and personal communications from KHRC and Traidcraft Exchange UK staff

### 3.3 Three spheres of action: organising

Rural actors often face big challenges that are difficult to tackle in isolation. For example, they may not have secure land rights, may lack technical, business and financial expertise, or may be in a weak negotiating position in markets and policy arenas. Depending on the context, effective organisation can be a key step to finding solutions.

Organisational configurations are extremely diverse, partly reflecting diverse socio-political contexts, actors, objectives and commodities. The degree of formalisation can vary greatly, ranging from formalised co-operatives or local government by-laws, to more informal networks and self-help groups based on kinship, ethnicity, custom or social relations.

While public debates often focus on formalised organisations such as co-operatives, these are often beyond the reach of poorer farmers, and evidence

shows that informal kinship networks can help producers reach markets and negotiate with traders, for example in Peru and Uganda (Vorley *et al.* 2012a). Social movements advocating for policy change can also present relatively low degrees of formalisation.

Sectoral remits also vary, ranging from commodity-specific to territorially based organisations. Some organisations reach beyond agriculture, as illustrated by the Self-Employed Women's Association (SEWA) in India, which is an organisation of self-employed female workers, including farmers, located at the confluence of the labour, co-operative and women's movements (Elbehri and Lee 2011, Nanavaty *et al.* 2018).

Organisations can have primarily economic or political objectives. Examples of organisations with economic aims include farmer co-operatives that aggregate farm produce and achieve scale, and local associations tackling collective problems such as sourcing inputs or dealing with rogue traders. Organisations for political action range from local institutions for territorial planning, to national federations of producer organisations working to influence national policy, all the way up to transnational coalitions conducting advocacy on international treaties governing trade, investment or intellectual property.

Compared to business organisations, organising to influence public decision-making typically requires different approaches. However, much depends on context-specific historical and political trajectories (McKeon *et al.* 2004). Also, lines may be blurred and different tiers of organisation may play diverse roles in economic and political arenas.

For example, 'first-tier' (that is, local-level) producer organisations may enable farmers to aggregate, achieve efficiencies and get a better price. Meanwhile, second-tier organisations which group together several first-tier units may help to further aggregate produce, invest in value-added processing, and provide services to members. Third-tier national federations may focus on policy advocacy, and fourth-tier international alliances on shaping regional or global policy agendas.<sup>14</sup>

Addressing social differentiation may require devoted organisational arrangements. For example, when women interact with commercial agriculture they face both general constraints and gender-specific issues, such as limited time due to household responsibilities, limited mobility outside the village, and discriminatory socio-cultural practices (Oxfam International 2013). Organisation can help women overcome some of these barriers, but tailored arrangements may be necessary to facilitate women's participation and leadership (eg flexible membership criteria not tied to land ownership) (Oxfam International 2013).

Diverse factors dictate the success or limitations of organising, whether more or less formalised (Macqueen *et al.* 2006), and as membership typically involves transaction costs, an organisation's success partly hinges on its ability to deliver

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14 See eg Friis-Hansen *et al.* (2018) for a few examples.

hoped-for benefits to its members. Failure to deliver can erode an organisation's relevance and ultimately its members' loyalty, for example where farmers sell produce to a business that offers a better price or service than the co-operative they own.

The amount of influence organisations can exert on value chains or public policies will depend not only on their numerical membership, degree of initiative and internal governance, but also on the quality of external arrangements for channelling voices and effecting change. These can range from value chain governance systems to multi-stakeholder fora at local to national levels (Olascuaga and Villalba Clavijo 2015). Where such arrangements are absent, organisations representing rural actors may need to lobby for them to be created.<sup>15</sup>

In many cases, rural actors organise themselves without any external support, their perceived 'ownership' of the organisation essential to its ultimate success (Herbel *et al.* 2012). However, external support has often helped catalyse collective action. For example, some community or producer groups have gained inspiration and insight from other farmers' experience (Poole and De Frece 2010, Herbel *et al.* 2012). External actors can also help settle local disputes that constrain collective action, as well as providing information on different organisational options, support in establishing effective governance structures, and facilitation in consolidating or expanding the membership.

Where effective organisations already exist, external support may be welcomed to help address social differentiation among members and improve the leadership's representativeness and accountability. Examples include strengthening the voice of women and youths in decision-making bodies, or creating channels for ongoing dialogue between the represented and their representatives (eg Conteh 2015, Fall 2017).<sup>16</sup> External support may also help the organisation develop a clearer vision of its members' development challenges and priorities (eg Knight *et al.* 2016), identify the key relationships that need to be established or renegotiated, and augment the organisation's ability to effect change in value chains or policy arenas.

Different spaces are likely to require different organisational forms, strategies for influence, and possibly types of external support. For example, change at the local level will require effective grassroots organisations, and those providing support will need strong relationships with local actors, both in the communities and in local government. Achieving change at the international level often requires effective and well-resourced coalitions of organisations to operate at different levels.

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15 For analysis of the mutual benefits to be had by governments and producers through more inclusive decision making, see also deMarsh *et al.* (2014).

16 For an example of an approach to address gender issues in a co-operative, see the work of co-operative Prodecoop, supported by We Effect: [bit.ly/2T4nEvC](http://bit.ly/2T4nEvC) (in Spanish only)

### Box 2. Ghanaian cocoa farmers' effective organising enables a stake in UK trading

After Ghana partly liberalised its cocoa market in 1993, small-scale growers set up a co-operative to trade their cocoa. Over time, the Kuapa Kokoo co-operative has expanded its membership to tens of thousands of farmers, and has developed into a substantial organisation that also includes a trading company, 44% shareholding in a UK company selling Fairtrade-certified chocolate, and a trust fund to support community development projects.

The co-operative rests on a network of local societies, which are the members' primary interface. The farmers grow cocoa on small plots of customary land. The trading company owned by the co-operative purchases the cocoa beans, which are then sold and shipped to Europe via the government institution responsible for all Ghanaian cocoa exports. The UK company distributes the chocolate bars in shops and supermarkets across the UK, the United States and around the world. The trust administers funds from the Fairtrade premium, financing income-generating or social infrastructure projects proposed by the communities.

In establishing or joining the co-operative, farmers sought better prices for their cocoa and more reliable payment. In addition, they sought greater control over value chain activities, hoping to leave behind years of neglect and disenfranchisement. Co-operative members elect their representatives at local and national levels, under a constitution inspired by the principles of democratic governance and co-operative values. The co-operative is represented on the board of the UK company, and the farmers are proud to own a company in Europe.

The co-operative drives the design and implementation of its activities, but it has also secured support at key junctures. In the start-up phase, UK fair-trade company Twin Trading and Dutch NGO SNV supported the establishment of the co-operative and the development of its business plan. Twin and others also helped Kuapa Kokoo set up the UK company, which, in addition to paying the Fairtrade premium and delivering 44% of distributed profit, has also provided support via projects funded through a 2% share of its income.

Several such projects involve socio-legal empowerment dimensions. Recent examples include support for a 2015 review of the co-operative's constitution, which resulted in revisions to strengthen gender equality and improve regional representation in the national executive council; raising members' awareness about the constitution, including through radio programmes and training materials; and training newly elected representatives in local and national executive councils.

Another project focused on land and labour rights. In Ghana's cocoa belt, the terms of customary tenancy agreements are often contested, which places sharecroppers and farm caretakers in a precarious position. In 2013, the co-operative's assembly of members resolved to develop template contracts for use between landowners and sharecroppers. From 2015, a Twin-supported project worked to implement this resolution, following on from earlier initiatives to develop template tenancy agreements in Ghana's cocoa growing areas. This included a project jointly implemented by IIED and a Ghanaian NGO.

Sources: Tiffen *et al.* (2004), Tagoe (2010), Davis (2014), Kakraba-Ampeh *et al.* (2014), [www.kuapakokoo.com](http://www.kuapakokoo.com), [www.twin.org.uk](http://www.twin.org.uk) and [www.divinechocolate.com](http://www.divinechocolate.com)

### 3.4 Three spheres of action: engaging

Rural producers and communities have engaged with other value chain and/or public policy actors to (re)negotiate their participation in commercial agriculture, or their exposure to its effects. An example may be a farmer co-operative mobilising collective action, as well as legal or agronomic expertise, in its negotiations for the purchase of agricultural inputs or the sale of farm produce. A policy-oriented example may involve a national federation of producer organisations facilitating grassroots deliberation to promote reform of legislation on seeds, land, market governance, credit or rural co-operatives.<sup>17</sup>

There will also be situations where rural actors may need to seek redress in the courts or through grievance mechanisms. Farmers in different parts of the world have initiated legal proceedings to challenge unfavourable contracts or unfair labour relations, strike down gender-discriminatory customary norms, seek remedy for environmental degradation, or demand compliance with contractual terms. While litigation typically requires external expertise, some producer organisations have established their own internal legal unit (Fathoni 2014). Legal and political strategies are not mutually exclusive, and litigation is often combined with public campaigning (see Box 3).

Where external support is required, multiple providers may be relevant, from NGOs and public interest law firms to engaged academics. Government institutions can also play an important role, including through their agricultural extension services. While extension services have traditionally focused on advising farmers on agronomic techniques, 'new extensionist' thinking calls for broadening the scope to issues such as forming business partnerships or navigating regulatory issues (GFRAS 2013). The viability of this expanded mandate partly depends on available skillsets and resources, and its desirability on the political economy of public extension services, the set-up of which may be driven by political as well as economic considerations (Berhanu and Poulton 2014).

Access methods also vary. Alongside traditional top-down approaches, innovative methods designed to be both accessible and empowering may take the form of participatory or experiential learning, peer-to-peer exchange, and institutional secondments to facilitate close collaboration between producer organisations and centres of expertise (IFAD 2018). There is ongoing reflection on innovative solutions to finance this ongoing support (CCSI n.d.). To ensure the support is sustainable, many field-level approaches minimise use of highly qualified but expensive specialists such as lawyers, instead relying primarily on grassroots actors such as community paralegals (Tanner and Bicchieri 2014, Franco *et al.* 2014).

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17 On the experience of Senegal's Conseil National de Concertation et de Coopération des Ruraux (CNCR) in promoting reform of agriculture-related policies and laws, see eg Diouf (2015).

Rural resource centres are an increasingly popular innovation that producer organisations, NGOs and businesses have developed to centralise provision of technical support for small-scale rural producers. The centres are community-based 'one-stop-shops' where farmers can access inputs, learning resources, advisory services and opportunities for peer-to-peer exchange (Degrande *et al.* 2015). The empowerment potential of such services is likely to be influenced by their design, mandate and independence from any particular commercial interest.

In many cases, support to producers is embedded within a wider programme aimed at creating value chain relations or facilitating dialogue among value chain actors. In simultaneously addressing multiple challenges, these composite approaches can maximise impact. However, they can also raise questions. These include, for example, whether one organisation can play the 'honest broker' and 'farmers' supporter' roles at the same time, or whether tensions between different roles may require a different configuration of actors and arms-length relations.

### **Box 3. Legal representation enables banana growers in the Philippines to challenge and renegotiate unfair contracts**

About 30 years ago, the Philippines enacted agrarian reforms, as part of which land was redistributed to small-scale farmers (who were termed 'agrarian reform beneficiaries', or ARBs). The government then facilitated contracts between ARBs and agribusinesses, including joint ventures, lease agreements and contract farming arrangements. However, many ARBs saw the contract farming arrangements as unfair and one-sided in favour of companies.

A group of small-scale banana growers sought support from the Foundation for Agrarian Reform Cooperatives in Mindanao (FARMCOOP), a grassroots organisation that provides legal and other support to ARB co-operatives. Legal services include strengthening organisational structures, legal literacy training, advice in contract negotiations, and legal representation in court.

The growers were seeking to renegotiate their contracts and obtain better terms from their buyers. Companies were initially opposed to the renegotiations. Attempts to promote dialogue, including with the government, did not resolve the deadlock.

The farmers resorted to mobilisation, going on strike to obtain a renegotiation. With FARMCOOP's socio-legal support, they challenged the contracts before national courts. FARMCOOP also used international advocacy to gain support from consumer groups and trade associations abroad in order to pressure companies into agreeing to renegotiate the contracts.

Ultimately, the legal action resulted in the contracts being invalidated, and the renegotiations led to new contract farming arrangements that are more advantageous to the growers. The new contracts are now deemed to be a model for the banana sector in the Philippines.

Sources: Berger (2018) and farmcoop.coop

### 3.5 Towards a conceptual framework

This section reviewed experiences with socio-legal empowerment aimed at sustaining the agency of small-scale rural producers and members of their wider communities as they engage with, or are affected by, commercial agriculture. While Table 1b identified a wide-ranging palette of illustrative socio-legal empowerment activities, Sections 3.2 to 3.4 reviewed trends in three interlinked spheres of action – understanding, organising and engaging – and discussed in greater detail an illustrative experience for each.

Research provides insights on the types of socio-legal empowerment activities that are being implemented in various parts of the world. It also documents cases where action resulted in positive outcomes in terms of agency and wider socio-economic relations. In addition, wider bodies of research are indirectly relevant to this exploration, including the extensive literature on rural producer organisations.

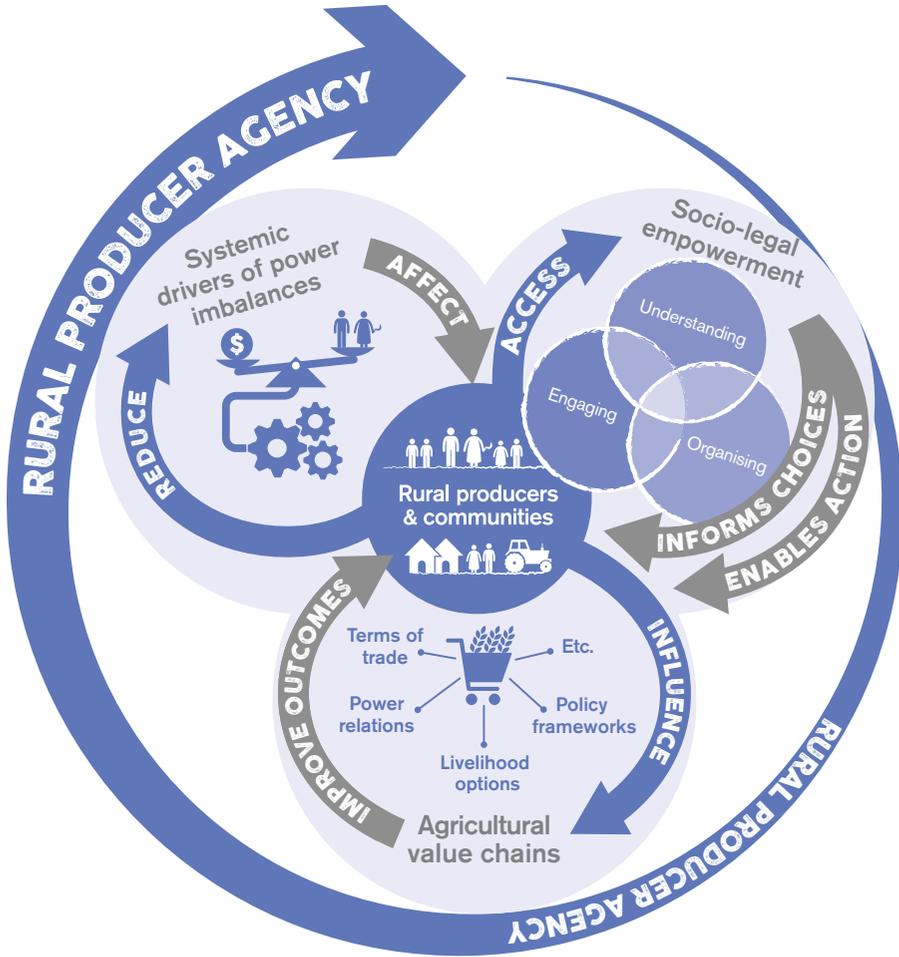
However, there is relatively little granular documentation of the approaches that underpin those activities, and few studies rigorously assess the relative effectiveness of different approaches. There is also limited evidence on the conditions that made advances possible, and on the scalability or replicability of those advances. Further, questions are still largely unanswered about the extent and conditions under which, at scale, socio-legal empowerment can meaningfully enhance agency in the face of the systemic imbalances discussed in Section 2.

In fact, evidence gaps affect the very role played by external support in empowerment strategies. The prevalence in the literature of advances made through external support perhaps says more about the nature of knowledge creation than real-world trends. This is because many ‘grey literature’ materials published by or in collaboration with support providers inevitably focus on success stories where an external actor played a significant role.

That said, available experience provides the basis for developing a conceptual framework that links socio-legal empowerment to agency, namely via approaches that support understanding, organising and engaging; as a result of which agency might effect change in value chain relations and socio-economic outcomes, as well as – possibly, and in the longer term – in some of the deeper-level systemic drivers of power imbalances.

This initial framework, visualised in Figure 1, is based on interrelations between concepts rather than empirical evidence, which as discussed remains patchy. The framework should form the object of further elaboration, testing and revision to rigorously and systematically assess the place of socio-legal empowerment in efforts to enhance agency in agricultural value chains.

Figure 1. Socio-legal empowerment to sustain the agency of rural producers and communities



## 4. Ways forward

The involvement of small-scale rural producers in agricultural value chains – from the local to international – is a response to socio-economic transformations and to some public policies that see in commercial agriculture a development pathway for rural people. The nature, features and degrees of formalisation of those value chains are very diverse, as are the contexts in which they are embedded, and their prevailing terms of trade. It is clear, however, that involvement in the value chains does not automatically deliver the hoped-for benefits for rural producers and communities, and that agricultural commercialisation can entail risks that require careful consideration.

Notions of inclusion and inclusiveness say little about the actors that drive social change: for example, contract farming to ‘include’ small-scale producers in value chains may involve top-down approaches. On the other hand, an agency lens identifies small-scale rural producers and members of their wider communities as key actors in the development process. It interrogates, for instance, the conditions under which producers can assert greater control over the value chain, from amplifying their voice in value chain governance all the way up to acquiring a stake in a distributor based in the global north (see Box 2).

Meanwhile, the notion of socio-legal empowerment outlines a route (amongst others) towards asserting agency, through a focus on the legal, albeit embedded in a wider programme of social action and a solid understanding of how agricultural value chains work. While socio-legal empowerment is fuzzy at the edges and partly overlaps with other approaches, it primarily rests on three spheres of action that sustain agency, which this report conceptualised as ‘understanding’, ‘organising’ and ‘engaging’.

This perspective recognises the autonomous decisions rural producers and communities make as part of their farm-based livelihoods. At the same time, it recognises that structural factors, including systemic features of the value chains, can severely constrain scope for agency, and that rural actors may need to access support if they are to assert agency in the face of new commercial interests in, and pressures on, their production.

To date, rigorous and systematic evidence on the difference socio-legal empowerment approaches can make, and under what conditions, remains in short supply. This situation highlights the need for further investigation, and a rich research agenda lies ahead in order to rigorously assess what works and under what conditions. Even so, available evidence provides a few initial pointers.

The extreme diversity of settings in commercial agriculture – from more informal trading via local intermediaries, to highly formalised and closely co-ordinated global value chains – will likely require tailored, differentiated socio-legal empowerment

approaches. Social differentiation in rural areas, including that based on income, wealth, status, gender and age, calls for carefully calibrated approaches that recognise and, where relevant, address that differentiation.

While the overall evidence base is patchy, case studies suggest that, in some contexts at least, socio-legal empowerment approaches *can* help promote positive outcomes. These include more balanced farmer–agribusiness contracts (for example, see Box 3), and more generally fairer value chain relations (for example, see Box 1). Experiences from Kenya and the Philippines show that initiatives, while locally 'owned', may need to transcend national boundaries if they are to be effective. Alliances between actors with complementary expertise, and with the ability to act at different levels and in different places, may be needed to address issues in complex value chain relations.

From a 'socio-legal empowerment for agency' viewpoint, the process through which rural actors get organised, think through the options they face, and identify and advance their preferred ways forward is more interesting than the specific arrangements they ultimately adopt. Therefore, solutions at scale cannot merely involve rolling out 'successful' experiences, for example a given organisational configuration or a standardised template for contract farming. Rather, they require sustained investment in bottom-up arrangements that can facilitate the emergence of context-specific pathways, based on informed choice and action by the people most directly concerned.

This emphasis on agency does not imply that the structural factors and the systemic issues at play – whether in value chains or policy arenas – are irrelevant. Rather, it promotes a bottom-up approach to tackling these factors. While concrete steps to advance this bottom-up agenda will inevitably depend on the context, the systemic dimensions compound the value of sharing lessons internationally on what approaches and processes can enable rural people to shape the solutions that make most sense to them.

From 2019 to 2021, the EPIC project will test socio-legal empowerment approaches in Malawi and Nepal, and feed lessons into law reform in the two countries and beyond. In selected sites, field testing will support small-scale producers and members of their wider communities in relation to 'understanding', 'organising' and 'engaging'. The broad palette of actions in Table 1b will form part of the repertoire EPIC will draw on.

Besides working in Malawi and Nepal, EPIC will take stock of evidence from other countries, including through research and lesson-sharing reports, and engage with policy debates internationally. In addition to promoting change in relevant local, national and international arenas, EPIC's activities will provide an opportunity to critically assess socio-legal empowerment approaches and the conditions that enable them to sustain agency. The conceptual framework developed in this report will provide the foundation for these EPIC activities, and will be interrogated, tested and revised throughout project implementation.

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# Research Report

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**Law, Food and agriculture**

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*Keywords:*

Commercial agriculture, empowerment  
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New public policies and changing economic fundamentals have spurred private-sector investment in commercial agriculture in low- and middle-income countries – from production to aggregation, processing and distribution. Growing numbers of policies and programmes aim to integrate small-scale rural producers into agricultural value chains, based on concepts such as ‘inclusive business’ and ‘shared value’.

But significant questions remain over how best to: recognise the possibly divergent visions, interests and constraints of various actors, and the risks and trade-offs that can arise; address often substantial power imbalances that affect value chain relations; and ultimately support genuine agency among rural producers and their communities – that is, their ability to make choices, take action and influence realities around them.

This report explores whether socio-legal empowerment – the combination of recourse to law with related change strategies such as collective action and gaining greater business savvy – might help address these issues. The report develops a conceptual framework to further understand, test and strengthen the contribution of socio-legal empowerment to enhancing the agency of rural actors as they engage with, or are affected by, commercial agriculture.

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