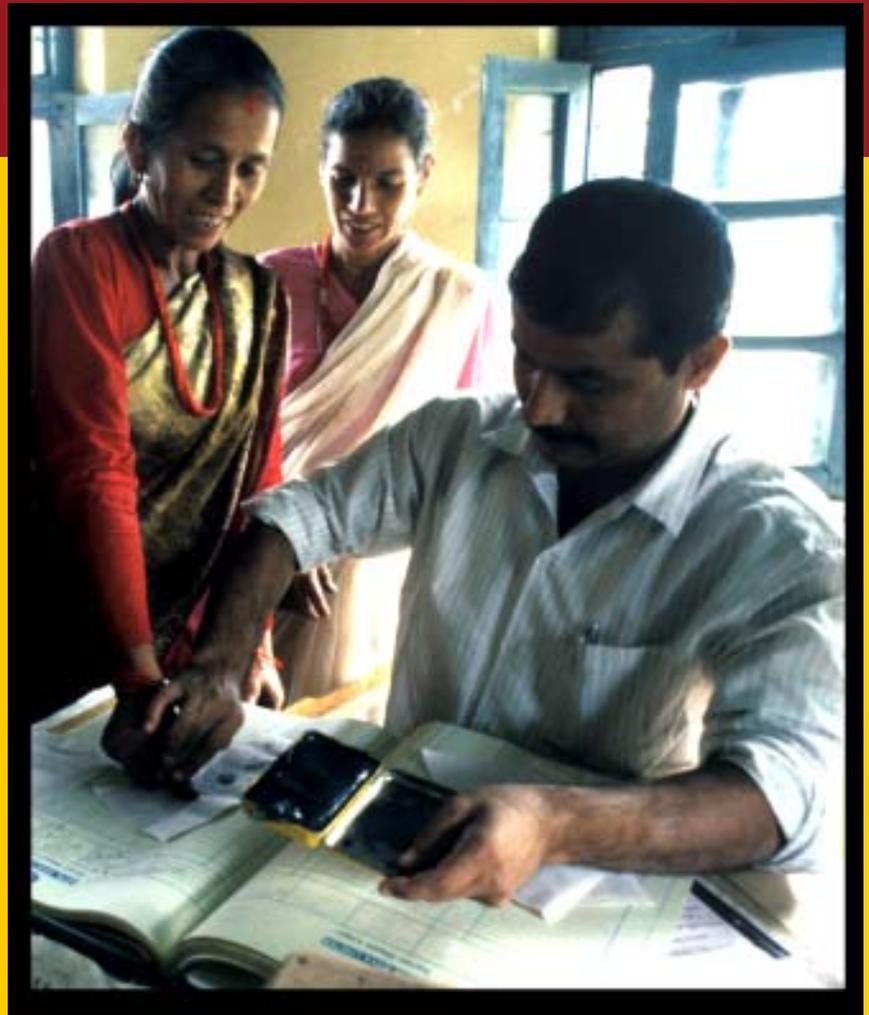


Law and Policy Reform in Asia and the Pacific

**ENSURING
VOICE
OPPORTUNITY
& JUSTICE**



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“The region faces the twin challenges of strengthening the state capacity for development effectiveness, and enhancing the legal and institutional framework through which state action is bounded by legitimacy, commitment to inclusive development, and fairness”

“As the speed of change accelerates, the role and nature of institutions and laws must also adapt to take advantage of newly available opportunities, to withstand new threats, and to overcome persistent problems”

—*Asian Development Bank Annual Report 2003*

Foreword

The Asian Development Bank (ADB) has a long-standing commitment to law and policy reform in our developing member countries (DMCs) as a means of strengthening fair and equitable interactions between citizens, the private sector, and state institutions. This brochure summarizes ADB's law and policy reform efforts over the past decade, demonstrates how these interventions support poverty reduction in Asia and the Pacific, and points the way toward future initiatives to achieve development effectiveness.

In its efforts to empower the poor, ADB supports policies that emphasize social inclusion, government reforms to help increase institutional responsiveness to citizens' needs, and enhancement of the environment for private sector development. ADB believes that these initiatives, when in combination, work together to produce better results.

For example, legal empowerment has been used as a method to enhance the position of the poor in Cambodia by reforming the land registration system; in the province of Sindh, Pakistan, land tenure relationships have been redefined; and the relationship between legal proof of existence and access to resources, services, and opportunities is being explored in Bangladesh, Cambodia, East Timor, and Nepal.

In many of ADB's DMCs, courts do not have the institutional capacity to act as an effective, separate, and equal arm of the state. The justice sector is chronically underfunded and expenditures on justice and law and order have not been part of development priorities. As a result, the capacity of the judiciary is generally weak and courts are clogged with cases. Serious procedural delays in reaching decisions are frequent. Added to this are issues of judicial corruption and lack of accountability of the courts.

ADB has provided technical assistance to India and Pakistan to help counter delays in court procedures. In the North West Frontier Province of Pakistan some early results are impressive. For example, in Abottabad district, there is no criminal case pending for more than one year.

In the Philippines, ADB is supporting efforts to make the judiciary financially independent while increasing its transparency in the use of funds. ADB has also supported judicial training in several of its other DMCs, including Cambodia, the People's Republic of China (PRC), Mongolia, and Viet Nam.

ADB's private sector development has employed loans, equity investments, partial credit and political risk guarantees, and technical assistance to further enhance the capabilities of the private sector in its

DMCs to produce increased economic growth. For example, a recent rupee-denominated ADB bond issue will lead to further development of the commercial bond market in India.

ADB's work in insolvency and secured transactions has helped it articulate some core principles that underlie all well-functioning financial systems. Assistance to the PRC in its accession to the World Trade Organization (WTO) has taught ADB important lessons about substantive law reform, appropriate institutional reform, and the adoption of appropriate measures for judicial review, in connection with the implementation of WTO requirements.

It is important for ADB to prioritize its work to focus more on initiatives that are likely to bear fruit. ADB's experience in Asia and the Pacific, as indicated by this brochure, suggests that it can make a substantial contribution to development effectiveness by strengthening its own capacity and that of its DMCs.

This strengthening encompasses financial sector reform in selected areas such as insolvency, secured transactions, and capital markets law reform; regulatory reform in certain sectors such as electricity, gas, and water law reform; legal and administrative governance reform to promote transparency and accountability; and key emerging or strategic issues, such as anti-money laundering and the legal aspects of regional trade and economic arrangements.

Regardless of whether one places emphasis on economic growth, social development, or governance, it is important to recognize that law helps transform policy into reality on the ground. It is the "intellectual bridge" that supports all of ADB's activities, and should be seen as an integral part of ADB's development agenda.

ARTHUR M. MITCHELL
General Counsel

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The Role of Law and Policy Reform in Poverty Reduction

ADB's law and policy reform activities include judicial and police reform and interventions that create a more enabling environment for private sector growth, enhance bureaucratic responsiveness to public demands, promote greater transparency in public institutions, and curb corruption



Landscapes, an art historian once noted, are often deceptive: they can hide more than they actually show. So it is with attempts to define poverty just as a function of income. True, without income, there is no escape from poverty. But to understand the predicament of the poor and their prospects for overcoming poverty, one must go beyond the metric of “dollar-a-day” existence. Poverty and its deprivations must be seen in all their bareness: lack of education, health care, nutrition, clean water, safe sanitation, income, and—ultimately—the passage of premature death. Alongside these deprivations, one must also take cognizance of citizens’ rights that are denied, the opportunities that are bypassed, the entitlements that are wasted, the public services that are not rendered, the liberties that are seized, the public resources that are plundered, the terror of vulnerability that is inflicted, and the sense of dignity that is devoured. Indeed, in articulating its 1999 Poverty Reduction Strategy, ADB acknowledged a move away from income as the sole measure of poverty and recognized these intangibles stemming from powerlessness and despair as a part of the accounting of the perniciousness of poverty.

An appreciation of the severe institutional and other factors contributing to the persistence of widespread poverty in Asia and the Pacific has led ADB to adopt a broad definition of poverty. This definition underscores the importance of three factors. First, interventions that promote pro-poor, sustainable economic growth are

important. Second, interventions that promote social development and expand human capability—both those that are instrumental to achieving growth and those that are of intrinsic value to human aspirations—are important. And third, interventions that promote good governance are vital to sustainable development. Institutions, including legal institutions, weigh heavily in determining the outcomes of each of these interventions. Thus, while the three factors or interventions articulated above are rather straightforward—they will yield the expected results only when applied with full understanding of the particular context and a deep appreciation of local knowledge.

ADB’s law and policy reform activities have been aimed at addressing the institutional and structural impediments to fighting poverty. They focus on a range of fundamental issues such as reforming judicial systems (including the police), creating a more enabling environment for the private sector to effectively compete and prosper, enhancing bureaucratic responsiveness to public demands, promoting greater transparency in public institutions through access to information, curbing corruption, extending legal protection against exploitative practices such as bonded labor, and introducing new laws for registration of land that permit use of such assets for collateral financing. ADB’s activities over the last decade in these areas have included about 400 technical assistance and loan projects spanning virtually all of ADB’s DMCs.

Law and Policy Reform Priorities

To operationally streamline its activities, ADB had adopted five priority areas for pursuing its law and policy reform work:

- Strengthen the enabling environment for economic growth
- Empower the poor by raising awareness of legal rights and obligations, and strengthen their ability to contribute to local governance structures and decision-making processes affecting their livelihoods and basic rights
- Enable the poor and other marginalized groups to exercise their legal entitlements
- Support equality of access to justice and nondiscrimination in the application and enforcement of laws and policies
- Contribute to regional cooperation in strategic areas of law and policy reform.



In the past, definitions of legal systems have been bounded by the lawyers' narrow experiences as internal actors within the guild. But traditional definitions of the legal system are far too limiting to address the broader poverty reduction and development objectives of ADB. Instead, a definition that is much more robust and programmatically emancipating is "A legal system encompasses the rights and obligations of any individual or private or public institutions that is supported by formal or informal enforcement mechanisms."¹ Among other things, this functional definition of a legal system eschews the traditional and often artificial bright line that is drawn between bureaucracies and judiciaries.

This broader definition of a legal system is particularly salient in Asia where bureaucratic penetration is pervasive and pub-

lic service delivery often wanting and frequently unaccountable. Just as the definition of what constitutes a legal system has expanded, so too has ADB's definition of what constitutes "access to justice." Earlier definitions of access to justice contemplated the mediation of a narrow and mostly formal set of institutions (courts, judges, prosecutors, and public defenders) and activities (litigation, law drafting, and legal aid). ADB's own experience on the ground in the development of the Access to Justice Program in Pakistan, however, showed the gross inadequacy of this traditional definition and led it to arrive at a new definition:

Justice is understood as a function of the relationship between institutions responsible for delivering entitlements (public goods and services)

predictably, affordably, and accountably, and the ability of the poor to secure and sustain their access to key sets of assets.

Likewise, the complementary applied research supported by ADB in its regional study on legal empowerment demonstrated the need to expand the boundaries of what is meant by access to justice and the institutions that may be involved in enhancing it. In that study, legal empowerment was defined as "the use of law to increase the control that disadvantaged populations exercise over their lives." In other words, the law becomes a key instrument in empowering people without influence.

ADB's law and policy reform strengthens a range of fair and equitable interaction between citizens, businesses, and state institutions.

¹Lawrence M. Friedman, "On Legal Development" *Rutgers Law Review* 24:11–64 (1969).

ADB's Law and Policy Reform Activities

ADB's activities in law and policy reform have considerably expanded. These activities have included the following:

- Legislative and institutional reform including legal frameworks for decentralized government; administrative, regulatory, policy, or standard setting reforms; provision of help to DMCs to effectively manage their government legal services; efforts to work with judges and court registrars to ensure more effective court management and production of well-reasoned and legally sound judgments; and efforts to encourage courts to be more transparent in their work practices.
- Making judicial systems work better by ensuring adequate financial and organizational resources, enhancing their management capabilities, introducing modern case management systems that reduce delays in the administration of justice, and supporting other activities that enable citizens to become effective sentinels against corruption and other forms of maladministration in the justice system.
- Transparency and dissemination of information to raise awareness, particularly among poor communities in DMCs, and to help build the capacity for undertaking legal reforms; promotion of transparency of laws, court judgments, and administrative practices and policies by institutionalizing a right to information or obligation to disclose information; creation of an Asian legal database linking English translations of laws, court judgments, and commentaries on laws from DMCs that is accessible via the Internet; and work with courts and public sector institutions to publish information on their roles and performance through annual reports, web sites, or information kiosks within these institutions.
- Capacity building and institutionalizing training by working with government institutions and regulatory agencies to strengthen capacity to deliver services to the poor and others; creating continuing legal education institutions for lawyers, judges, prosecutors, and government officials; and making available training materials on new laws and policies, including the creation of online databases of inhouse training materials for government departments with offices that are geographically isolated.
- Research in strategic areas of law and policy reform and convening key actors from DMCs to consider findings.

Strengthening the Enabling Environment for Economic Growth

ADB's law and policy reform assistance supports a diverse range of activities to strengthen the enabling environment for private sector-led economic growth. ADB supports the drafting of new economic laws, particularly in transition economies; and the modernization and harmonization of existing economic laws in countries where policies are being developed to shape new roles for the public and private sectors.

ADB has devoted significant resources in DMCs to strengthening the knowledge and skills of government officials, lawyers, and judges on how to implement new laws and policies. It has also developed approaches to make this training more sustainable.

ADB has helped DMCs establish legal training institutions. In Maldives, Mongolia, Nepal, Pakistan, and Viet Nam, ADB has provided training and materials for continuing legal education in institutions that will train judges, prosecutors, lawyers, and government officials.

- **Developing training curricula for national training institutions.** ADB has developed training curricula for national training institutions such as judicial colleges and university law courses that cover new laws and policies. Examples of this include a course on new land law reforms at the Judicial Training School in Phnom Penh, Cambodia; and support for the establishment, curricula development, and faculty capacity building of a new law school in the Maldives.
- **Promoting intranet or web-based access to training materials.** In Thailand, ADB has worked with the Legal Execution Department of the Bankruptcy Court to develop a Thai language database of self-training materials on insolvency and business reorganization. This increases access to this information for the staff of more than 2,000 employees who are dispersed among the department's 95 offices country-wide. The database is accessible via the department's

ADB has funded the Development of the Internet for Asian Law (DIAL), which is an international Internet catalog and search facility of legal materials. The DIAL project aims to enable easier access and use of legislation-related materials on the Internet. The project has also enabled in-country training in Internet legal research for government lawyers in seven DMCs.



intranet and the Internet, and allows its employees to easily access notes, checklists, or documents to assist them in their work. A database administration facility allows the host organization to easily amend and update the training materials.

Increasing the Transparency of Laws

Access to information about laws, court judgments, and policies is a core element of good governance. It allows local entrepreneurs, foreign investors, and citizens to know what the law is and how it has been interpreted in court cases. ADB has worked on projects at both the regional and country levels to help DMCs increase the transparency of their laws and legal information.

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ADB has also assisted in developing legal information systems in PRC, Nepal, and Tajikistan. ADB has helped the Tajik Law Reform Commission harmonize, publish, and disseminate a collection of Republic of Tajikistan laws in Tajik and Russian. In Nepal, a project is underway to create a legal information system of laws, regulations, and court decisions to be accessible via the Internet. ADB's support

to the PRC has resulted in a 16-volume, loose-leaf publication of PRC laws and regulations, which also includes an English translation.

New Regulatory Institutions and Mechanisms

In those DMCs that are moving from a centrally planned to a market economy, governments are exploring ways to increase the role of the private sector in the provision of core public utilities and services such as water, energy, roads, and other forms of public infrastructure. ADB has responded to DMC requests for information on how to structure the contractual and financial arrangements for these public-private partnerships as well as the policy implications of different forms of regulation. Training on these issues for government officials from a range of sectoral ministries has been conducted in Bangladesh, PRC, India, Indonesia, and Viet Nam. ADB has also surveyed and evaluated the performance of regulatory frameworks for private sector infrastructure development in Bangladesh, India, Indonesia, Malaysia, Pakistan, and Philippines. The research findings on issues such as price and profitability, service coverage and quality, and investment were incorporated into the training programs conducted in these DMCs.

Assisting DMCs in Legislation Relating to International Trade

The economic and social benefits of increased trade in goods and services are of

central importance to ADB's DMCs. The Doha Development Round of trade negotiations under the WTO will be critical to developing countries seeking significantly enhanced market access for their goods, particularly agricultural goods, in the markets of their developed country trading partners. Of ADB's DMCs, 18 are WTO members, and nine are in the process of acceding to the WTO.

ADB is playing a role in assisting DMCs in their preparations to join the WTO. For example, ADB responded to a request from the PRC for assistance in preparing for accession to the WTO. ADB's technical assistance included helping the then Ministry of Foreign Trade and Commerce draft the key pieces of legislation to ensure consistency with WTO rules, supporting PRC government officials in their understanding of major issues in the WTO Doha Development Agenda and in regional trade and economic integration arrangements. Subsequent to the PRC joining the WTO, ADB responded to a further request for technical assistance to strengthen the ability of the judiciary to conduct an independent judicial review of administrative decisions affecting foreign trade matters as required under WTO agreements. The technical assistance will help with two major challenges for the PRC government in implementing its WTO obligations: how to address the legal and institutional issues arising with judicial review in the PRC context, and how to strengthen the capacity of the court system to conduct judicial review of WTO-related matters. (*next page*)

Insolvency and Secured Transactions Reform

ADB has pioneered in assisting in insolvency and secured transactions reform in its DMCs. Capturing the increased momentum toward financial sector reform that emerged in the wake of the Asian financial crisis, an ADB regional technical assistance project analyzed insolvency and business reorganization frameworks across 11 Asian jurisdictions and proposed recommendations for further reform. This research then formed the basis for a publication on good practice standards that are considered essential to debtor-creditor relations in a sound corporate insolvency environment. Acknowledging the pioneering nature of this work, the United Nations Centre for International Trade Law (UNCITRAL) incorporated these good practice standards into its draft *Legislative Guide on Insolvency Law*.

The fallout from the Asian financial crisis also highlighted the importance of developing a framework for regional cooperation to address the growing problem of cross-border corporate insolvency. ADB's two regional meetings of key stakeholders on strengthening national insolvency frameworks led to a further commitment by four DMCs to consider ways of cooperating in cross-border insolvency.

ADB research into secured transactions, commissioned under a regional technical assistance, led to the development of a strategy for secured transaction law reform for several DMCs, and a series of follow-on country initiatives in Bangladesh, India, Indonesia, Lao People's Democratic Republic (Lao PDR), Sri Lanka, and Viet Nam. This research also led to the publication of the *Guide to Moveables Registry*. ADB's research pioneered an integrated approach to insolvency and secured transaction law reform to ensure that insolvency reforms support secured lending and contribute to a more predictable debtor-creditor legal regime.

Empowering

At the heart of ADB's definition of poverty is the critical concept of empowering the poor "to participate in decisions that shape their lives." This involves citizens having the knowledge and resources to interact in an informed manner with employers, other citizens, the state, and with private and public sector institutions in relation to their legal rights and obligations. It also involves the state—including devolved government institutions—to develop mechanisms that enhance citizens' participation in governance structures at national and subnational levels.

Legal empowerment is critically linked to the participation of the poor on issues that affect their livelihood, basic rights, and security. Legal empowerment, in essence, includes a range of activities that promotes awareness by the poor of their rights to public goods and services as well as more basic legal rights concerning respect for and security of the individual. As the poor may also be illiterate, raising awareness of new laws and policies may have to be conducted through national campaigns involving comics, radio broadcasts, television programs, or the performing arts. Legal empowerment activities can also encompass developing mechanisms for interaction with and bringing formalized grievances by citizens to government institutions or the judiciary.

ADB has undertaken pilot studies on the use of legal empowerment activities in sector loans to gauge whether awareness of legal rights and the means to enforce them may strengthen the socioeconomic impact of development projects in other sectors such as agrarian reform, irrigation, health, or natural resource management and conservation. While the impact of these pilot studies will take more time to assess, the initial findings are encouraging (*see succeeding articles*).

Land Law Reform in Cambodia



A meeting of Cambodia Ministry of Land Management, Urban Planning and Construction staff, local authorities, and villagers was held at a proposed site for a social land concession pilot program under the ADB-financed Land Law Implementation Project.

The majority of land in Cambodia is unregistered, resulting in uncertainty and confusion regarding land ownership and land rights. Through two consecutive projects, ADB is helping the Government of Cambodia establish landownership and related landrights laws to help resolve these issues. ADB has assisted in developing a legal framework for establishing cadastral commissions, which are administrative bodies responsible for hearing land disputes about unregistered land at the district, provincial, and national levels. The ADB support included training for commissioners in dispute resolution; in 2002–2003 the commissions considered 979 cases of which 226 have been resolved. Before the establishment of these commissions, all disputes over Cambodian land, whether registered or not, went directly before the courts.

the Poor

Legal Empowerment: Advancing Good Governance and Poverty Reduction

In 2000, ADB commissioned a study of how legal empowerment—or the use of law to increase the control that disadvantaged populations exercise over their lives—contributes to good governance, poverty reduction, and other development goals. The research included seven country studies identifying the constraints faced by the poor in accessing the legal system and participating in local or national governance structures. These constraints included:

- Lack of economic independence
- Minimal understanding of law and the rights it confers
- Limited access to affordable legal services
- Lack of knowledge, incentives, and resources among government officials
- Limitations in the outreach and capacity of civil society organizations to provide

The ADB projects are raising public awareness of land law and increasing people's access to mechanisms to realize their rights under the new law. Given that illiteracy prevented many Cambodians from gaining access to written accounts of the new law in newspapers, the project included the filming of a public awareness video in drama format, entitled *Our Land*, and a cartoon book of the video. The video was shown daily for two weeks and then weekly on the Government of Cambodia's television channel. About 2,500 copies of the cartoon book have been produced in the Khmer language and distributed through non-government organizations (NGOs). To assist poor people who cannot afford lawyers, or who live in remote areas of Cambodia, ADB is supporting the training of grassroots NGO staff to represent the poor before cadastral commissions.

Legal empowerment can be undertaken by assisting poor communities to take action to assert their rights or enforce judgments through formal or informal decision-making bodies



- Legal services to the disadvantaged
- Inconsistency between formal law and traditional values
- Poorly drafted or contradictory laws and regulations
- Failure to implement sound laws
- Traditional use of law as an instrument of control
- Corruption

Legal empowerment can be undertaken through various activities and strategies including:

- Raising awareness of the law and the rights it confers through print media, television, radio, the performing arts, the Internet, distance education, community-based training, and training of trainers
- Providing assistance to poor communities to take action to assert their rights or enforce judgments through formal or informal decision-making bodies such as legal aid, assistance from paralegals, alt-

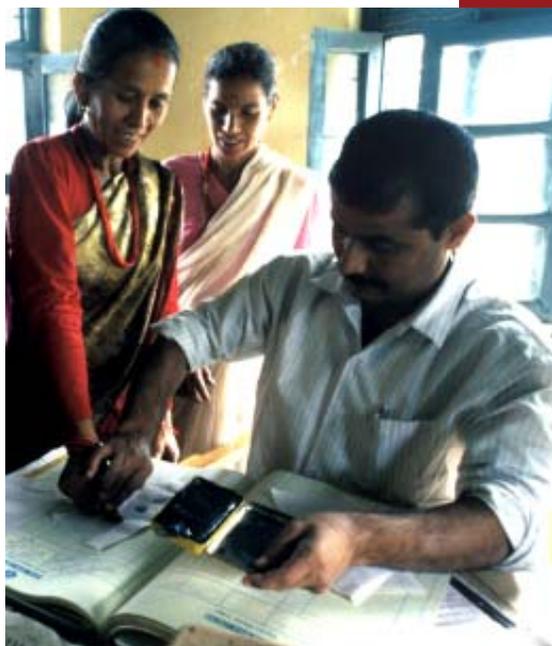
ernative dispute resolution, and public interest litigation cases (or class actions)

- Fostering participation by the poor, or NGOs representing their interests, in local governance structures relating to issues that affect their lives, including community participation in justice monitoring committees such as the Citizen Liaison Coordinating Committee in the North West Frontier Province, and the Pakistan and Criminal Justice Coordinating Committee in Sindh, Pakistan.

The governance dimension of legal empowerment acts in two complementary ways: in the short term, the poor are better able to play an informed role in local decision making to advance their rights and interests, and, in the longer term, the mobilization of public interest and expectations can have a catalytic impact in making public institutions more responsive and accountable to the needs and rights of the poor.

Access to Justice and Nondiscrimination

Registration is often a fundamental prerequisite for social participation and inclusion. It is also potentially useful in efforts to curb child labor, child marriages, and child prostitution and trafficking.



For a legal system to impart justice, laws must be drafted, implemented, and enforced in a manner that does not discriminate between citizens and that provides them with the means, if necessary, to resolve disputes in a timely and effective manner through formal or informal means. ADB has applied the lessons learned in its projects to ensure that citizens' poverty and vulnerability do not also result in legal discrimination that further compounds economic and social marginalization.

Legal Identity Regional Research

An ADB regional technical assistance project proposes to explore the relationship between the existence of proof of legal identity— such as a birth record—and access to resources, services, and opportunities in Bangladesh, Cambodia, Nepal, and Timor-Leste. It has been estimated that up to 63% of births annually in South Asia are unregistered, with 22% unregistered in East Asia and the Pacific. Fewer births are registered in rural areas than urban areas, and the registration rate for girls is less than boys, as is the registration of births from some minority groups.

This lack of registration appears to have significant economic, social, and political consequences. Those who are unregistered are impeded in their capacity as citizens to access services. Proof of legal identity or a birth record is linked in varying degrees across countries to the provision of education opportunities, immunization, formal employment in the private and public sector, financial services, social security, access to justice, property rights, participation in the decision-making process through voting, marriage rights, citizenship rights, and inheritance rights.

Registration is often a fundamental prerequisite for social participation and inclusion. It is also potentially useful in efforts to curb child labor, child marriages, and child prostitution and trafficking. Yet compulsory registration also opens up avenues for rent-seeking by officials and has the potential for misuse of information. The ADB study is exploring how a balanced approach to these issues can be undertaken.

Pakistan's Access to Justice Program

ADB's largest law and policy reform project is the Pakistan Access to Justice Program (AJP), which helps the Government of Pakistan improve access to justice through five interrelated governance objectives:

- Providing a legal basis for judicial, policy, and administrative reforms
- Improving the efficiency, timeliness, and effectiveness in judicial and police services
- Supporting greater equity and accessibility in justice services for the vulnerable poor
- Improving predictability and consistency between fiscal and human resource allocation and the mandates of reformed judicial and police institutions at the federal, provincial, and local government levels
- Ensuring greater transparency and accountability in the performance of the judiciary, the police, and administrative justice institutions

Although ADB's Board of Directors approved funding for AJP in December 2001, it was preceded by several preparatory technical assistance projects over 3–4 years that assessed the reasons why legal and judicial reforms in the past had systematically failed. Options for reform were also pilot-tested. These technical assistance projects included research on court users and would-be litigants, and found that any judicial system reform would need to deal with supply constraints—the quality of court facilities, automation, and procedures—and demand, including legal literacy, public access to information and the creation of special purpose bodies that would give citizens improved access to the judicial process.

After only two years of implementation, early results from the AJP include the following:

- Striking reductions in the number of court cases pending in the North West Frontier Province (NWFP). In the High



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Court based in Peshawar, the number of cases disposed of in 2002 increased by 222% over those in 2001. Across the three benches of the High Court in NWFP, there was a 35% reduction in the number of cases pending at the end of 2002, compared with 2001. In the district courts of NWFP, there was a 177% increase in the number of cases disposed of in the same period. In some districts pendency rates have come down dramatically with no criminal case outstanding over one year. Punjab has also registered similar results; in one large district there are no cases, civil or criminal, pending for a period longer than two years.

- Member Inspection Teams (MITs) within the judiciary monitor judicial performance and investigate complaints about the district judiciary. For the first time in 2002–2003, all courts within the NWFP were inspected and the performance of judges assessed by MITs. An incentive and reward policy was established that provided a monetary reward to judges on the basis of their performance.
- Procedures for citizens to lodge complaints in relation to a member of the judiciary were advertised in local newspapers. As a result of this, MITs received 864 complaints from July to December 2002. For the year ending 31 December 2003, the Peshawar High Court is in the final stages of preparing a similar report providing a more detailed breakup of the

nature and ultimate disposal of these complaints.

As there is a range of stakeholders in the AJP at federal, provincial, and subprovincial levels, including local government authorities and specific committees with judicial and policing functions, civil society groups, NGOs, and citizens, the performance monitoring and evaluation system aims to create opportunities for stakeholder involvement in monitoring and evaluation activities. The system seeks to foster opportunities for citizens to participate in performance review evaluation activities in addition to citizens' initiatives to monitor reforms.

The AJP includes the creation of an innovative special purpose fund, the Access to Justice Development Fund (AJDF), which is a statutory endowment created to provide independent budgetary support to the judiciary, particularly the subordinate judiciary, and carry forward other AJP reform objectives.

Evaluation is the lynchpin of ADB's AJP in Pakistan, necessitating the creation of new performance monitoring and evaluation (PME) tools that are appropriate for a law and policy reform technical assistance program. The PME system is integral to project implementation as a satisfactory annual PME report is essential for the release of the next loan tranche as well as the development of the next phase of the project's activities as outlined in a memorandum of understanding.

Regional Cooperation in Strategic Areas of Law and Policy Reform

ADB's research in strategic law and policy reform has been undertaken across several DMCs, bringing government officials, lawyers, judges, civil society, and academics together to discuss research and disseminate their findings. ADB has also consistently applied its findings from regional technical assistance research projects to follow-on country loan and technical assistance projects.

ADB's anti-money laundering regional technical assistance (*see box*) demonstrates how ADB's regional research enabled it to quickly and effectively respond to DMC requests for assistance once the urgency of dealing with this issue and the related financing of terrorism became evident in late 2001.

ADB's Anti-Money Laundering Activities

ADB was one of the first international finance institutions to initiate technical assistance for anti-money laundering. In 2000, ADB initiated a regional technical assistance project in anti-money laundering covering Cook Islands, Fiji Islands, Indonesia, Marshall Islands, Nauru, Philippines, Samoa, Thailand, and Vanuatu. The dual aim was to facilitate the adoption and implementation of internationally accepted standards and to accelerate regional cooperation and collaboration.

The Office of the General Counsel worked with the Secretariat of the Asia Pacific Group (APG) on Money Laundering, an implementing agency of this project, to strengthen the provision of information to DMCs through a seminar in June 2002 in conjunction with APG's annual meeting, and the establishment of an APG web site in October 2001. A training manual containing major international standards, prevention guidelines, and model laws was also produced and disseminated to DMCs in March 2003.

In each of the nine DMCs, research was undertaken to assess the challenges facing each country in complying with internationally accepted standards for anti-money laundering, and to suggest necessary reforms. This research led to ADB's further involvement in anti-money laundering by providing country dialogue, technical assistance projects and loan components in these and other DMCs, including Cambodia, PRC, Indonesia, Lao PDR, Philippines, Samoa, Vanuatu, Viet Nam, and Central Asian republics. The assistance aims to help DMCs meet the international standards on anti-money laundering, thereby establishing a robust legal and institutional framework that protects financial institutions from criminal misuse and ensures their integrity.



A seminar on Anti-Money Laundering and Combating the Financing of Terrorism in Manila, Philippines, March 2003

Conclusion

Law and policy reform provides the fulcrum to achieve sustainable economic development. Investments in economic development or social progress are unlikely to be as effective or efficient or even enduring in the absence of an optimal mix of legal, institutional, and policy structures. Indeed, law and policy reform is now an integral part of ADB's poverty reduction approaches.

ADB recognizes that no one prescribed path for law and policy reform exists. Each DMC needs to devise its own architecture of reform. ADB's experience in this sector, nevertheless, suggests that there are some general principles that transcend the particular. ADB remains committed to supporting this vital nexus to development in the most informed and intelligent manner.

About ADB

The Asian Development Bank is a multilateral development finance institution owned by 63 members, 45 from Asia and the Pacific and 18 from other parts of the globe. ADB's vision is an Asia and Pacific region free of poverty. Its mission is to help its developing member countries reduce poverty and improve their living conditions and quality of life.

ADB's main instruments in providing help to its developing member countries are policy dialogues, loans, technical assistance, grants, guarantees, and equity investments. ADB's annual lending volume is typically about \$6 billion, with technical assistance provided usually totaling about \$180 million a year.

ADB's headquarters is in Manila. It has 26 offices around the world. ADB's staff numbers more than 2,000 employees from over 50 countries.

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