

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).