

# NPRS-PRF

Helping Accelerate Poverty Reduction in Asia and the Pacific

## LEGAL EMPOWERMENT FOR WOMEN AND DISADVANTAGED GROUPS

Nearly 1 billion people around the world live in slums, with no security of title to their homes and assets. Over 70% of workers in the developing world are engaged in the informal economy without the protection of labor and other relevant employment laws. More than half the world's population live beyond the protection of laws, legal systems, and legal support mechanisms. The majority of the world's 6.6 billion people are deprived of the rights and safeguards of security, employment, and basic assets assured by the rule of law, and other fundamental legal protections.

Millions of slum residents in Asia and around the world have no legal identity records, addresses, or deeds of title to their modest dwellings. They lack legal protection of their economic rights and live in perpetual fear of eviction by local officials or landlords. For the poor, this kind of insecurity and instability is their way of life, with little expectation of change.

Their low social standing and educational status<sup>1</sup> make women, the elderly, indigenous people, and other marginalized groups especially vulnerable to exploitation and arbitrary treatment.

Studies show that slum dwellers that lack secure property have less access to public infrastructure and basic social services. Without security of title to property, small entrepreneurs face difficulty obtaining business start-up loans. As a result, they have little capacity to improve their economic and social conditions.

Studies undertaken by the Asian Development Bank (ADB) in the late 1990s indicated that women and other disadvantaged groups<sup>2</sup> face a range of socio-cultural and legal constraints to effective access to basic social services and productive resources. Research undertaken in the last few years have offered compelling anecdotal examples and basic but promising quantitative evidence of the connection between legal empowerment, the economic and social advancement of women and other disadvantaged groups, and good governance.

Legal empowerment equips the disadvantaged to more effectively advance their interests through engagement with the legal system, public agencies, civil society, private parties, and law reform efforts. It may also increase the benefits that the disadvantaged enjoy as participants in development projects.

### Objective

Building on the recommendations of previous studies on legal empowerment and the need for further research,<sup>3</sup> ADB's Regional

Technical Assistance for Legal Empowerment for Women and Disadvantaged Groups (RETA 6248)<sup>4</sup> intends to identify and test effective legal empowerment strategies and methodologies to increase access to basic social services and productive resources by women and disadvantaged groups in Bangladesh, Indonesia, and Pakistan. Key outputs include: country situational reports, pilot legal empowerment initiatives in projects, and purposive assessment tools. Practical lessons learned will be disseminated for use by ADB, governments, nongovernment organizations (NGOs), and development partners.

### Country Situation Analyses

Country situation analyses were conducted in Bangladesh, Indonesia, and Pakistan to explore the present programming environment for legal empowerment. Types of activities that are typically undertaken as components of legal empowerment strategies in the three countries include basic awareness raising, paralegal services, alternative dispute resolution, legal aid, participatory legal or regulatory drafting, public interest litigation, and policy-level advocacy strategies. Following are the highlights of the Country Situation Analysis reports:

**Bangladesh.** The country's legal framework reinforces the social and material subordination of specific disadvantaged groups, including women.<sup>5</sup> Weak laws and failure to enforce sound ones result in prejudicial enforcement of the law by the police and gender-biased judicial decisions. At the same time, the judicial system suffers from chronic delays in the disposal of case as a result of procedural wrangles, frequent adjournments, inadequate number of judges, lack of skilled judicial officers, and corruption among court officials. Those with money and power are generally served more expeditiously than the average person.

The efforts of NGOs and community-based and civil society organizations while impressive, have failed to achieve their full

potential to address women's and other disadvantaged groups' vulnerabilities. Challenges include resource constraints and lack of necessary skills, experience, coordination, and capacity to design, administer, and assess legal empowerment programs using robust empirical tools.

**Indonesia.** Indonesia has a plural legal system in which statutory, customary community (*adat*), and religious laws operate simultaneously. Traditional legislation and regulations are promulgated by a variety of means, including presidential instructions, ministerial decrees and circular letters.

Legal empowerment initiatives in Indonesia range from awareness raising to national legal reform. Activities include litigation, alternative dispute resolution (including independent and court-annexed mechanisms), policy advocacy, training and public education (legal literacy), legal services and consultation, ombudsman, public participation in legal drafting at all levels, public interest litigation, and media and advocacy campaigns. Legal empowerment efforts have also aimed to engender law schools curricula through courses on women and the law and clinical education.

Since legislation and procedures are drafted in complicated legal jargon and are often inadequately or inconsistently enforced, the function of law is often not socially significant and is not reflected in public behavior.

**Pakistan.** Male-female disparities in all social status indicators reflect serious gender inequalities. The Government of Pakistan has taken some steps to address the issue of gender inequality as reflected in its Medium Term Development Framework 2005-2010, Poverty Reduction Strategy Paper 2003, the National Policy on Women 2002, and National Plan of Action for Women 1997. The Government is also party to most human rights treaty such as CEDAW, CRC, and the ILO convention on indigenous and tribal peoples.

Although legal amendments have improved women's legal rights in family law matters and so-called "honor" crimes, there are a few tangible results to date. Efforts undertaken have increased the political representation of women and the disadvantaged, reversed the damaging separate election process for non-Muslims, and strengthened local government. Trainings for women and political leaders of the local government and national assembly levels have also been conducted to promote greater women's participation in public affairs.

Consultative workshops were conducted in the three countries to gather stakeholders' inputs on the findings and recommendations of the Country Situation Analysis reports, impact of legal empowerment interventions, and key criteria for selecting and planning pilot projects. Critical inputs included:

- There is lack of government responsiveness to the needs of women and disadvantaged groups in the context of legal protection, law enforcement, and access to justice.
- Discriminatory laws should be brought in line with the constitutions as well as with international human rights standards.
- Inconsistencies between formal law and traditional values should receive greater emphasis.
- Although the definition of legal empowerment adopted for purposes of the legal empowerment pilot projects makes sound practical sense, it fails to capture the nuances of legal empowerment efforts.

## Pilot Legal Empowerment Initiatives in Projects

A significant component of RETA 6248 is the integration of legal empowerment initiatives in development projects supported by ADB and other international development agencies with the aim of contributing to improved governance and poverty reduction. For this, current and future ADB projects in Bangladesh, Indonesia, and Pakistan were reviewed to identify opportunities to integrate legal empowerment components into mainstream and sector-specific developments projects.

By partnering local legal service NGOs with the host government agencies of the selected ADB projects, pilot legal empowerment initiatives were undertaken in Indonesia: *Neighborhood Upgrading and Shelter Sector Projects*; Pakistan: *Sindh Devolved Social Services Project*; and Bangladesh: *Second Small Scale Water Resources Development Sector Project 2*.

The pilot project experience will inform the development of two practical handbooks: a *Manual of Good Practice for Integrating Legal Empowerment Components in ADB Operations*, and an *Operating Manual for NGOs Involved in Legal Empowerment Initiatives*.

## Purposive Assessment Tools

A distinguishing feature of RETA 6248 is the development of purposive monitoring and evaluation methodologies to determine whether the selected ADB projects improved as a result of the integrated legal empowerment components.

## Lessons Learned

The pilot project experience and lessons learned under RETA 6248 will serve as models not only for future ADB support for legal empowerment activities but also for broader sectoral development initiatives by ADB and other development partners. Regional and national workshops will be held to disseminate the RETA 6248 outputs and lessons learned.

## Endnotes

- <sup>1</sup> ADB. 2002. *Sociolegal Status of Women in Indonesia, Malaysia, Philippines, and Thailand*. ADB: Manila.
- <sup>2</sup> The disadvantaged include the poor, as well as those who face discrimination or abuse as a result of gender, race, ethnic identity, or other personal attributes.
- <sup>3</sup> ADB. 2001. *Report on Regional Technical Assistance on Legal Literacy for Supporting Governance-Legal Empowerment: Advancing Good Governance and Poverty Reduction*.
- <sup>4</sup> ADB. 2005. *Regional Technical Assistance Legal Empowerment for Women and Disadvantaged Groups*. ADB: Manila. RETA 6248 was approved in July 2005 for \$550,000 under the Poverty Reduction Cooperation Fund (contributed by the United Kingdom Department for International Development and administered by ADB). It will be completed in December 2007.
- <sup>5</sup> For example, law institutionalizes male dominance over women in the areas of marriage, divorce, inheritance, guardianship and citizenship of children, immigration, and in some instances, labor and employment.

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For any queries, contact:

**NPRS-PRF** Secretariat  
nprs-prf@adb.org