



Using the Law to Fight Poverty

Caroline Vandenaabeele, an ADB Senior Counsel and Project officer for the Legal Identity project, discusses the project and the role of the law and the Office of the General Counsel in poverty reduction.

QUESTION: How did you get interested in the issue of legal identity?

CAROLINE: I came across the practical implications of this issue in two projects I was working on. One was a project in Pakistan in rural development, where debt bondage was a prominent feature and a major impediment to poverty reduction. One of the reasons why sharecroppers have difficulties in obtaining certain services such as accessing funds provided by micro-finance institutions, or registering the usage of land in their name, or accessing judicial services, is the lack of any identity papers. As a result, they become completely dependent on the goodwill of their landlord, often leading to a perpetual cycle of debt.

The second time I came across it was when I was working on a gender equality and empowerment of women project in Nepal. During one of the interviews with staff of the Department of Women Development, it was mentioned several times that in certain districts children could not get books, could not get scholarships, or could not sit for school leaving certificate exams if they do not have a birth registration record.

So the question arose as to what the implications of this were for ADB's projects and programs. Had we, for example, been designing education projects across the region for the last 30 years without ever realizing that maybe we were missing part of the target group simply because they do not have a birth registration record, and no legal identity?

OGC (Office of the General Counsel) then prepared a RETA to research the extent of the link between poverty and legal identity or the lack thereof. We sought to determine whether or not providing vulnerable groups with legal identity or a birth record would actually help them access socio-economic benefits, goods, and opportunities.

QUESTION: What did you learn from the study?

CAROLINE: One of the main conclusions from the study is that we cannot give one general comment on the issue of legal identity for all countries. We have to look at each specific case. The three countries studied by the regional technical assistance - Bangladesh, Cambodia, and Nepal – actually made for an interesting diversity.

In Nepal, it's very clear that many important benefits and opportunities flow directly from having key identity documents, particularly a citizenship certificate. In

Cambodia, on the other hand, while legal identity is often required to access public benefits and opportunities, such benefits and opportunities are severely limited, even for people who have the required identity documents. Moreover, there are a variety of documents that be used as an alternative. For example, birth certificates are in most cases interchangeable with family or lodging books, which most Cambodians have.

In between these two countries is Bangladesh, which is a very interesting case because they have approved a 2004 law requiring birth records for almost anything – school, health, employment, passports, installing water, gas and electricity connections, etc. – even though the Government has not started implementing the law yet. They realized that once they do, they will have to find a way to immediately register the 90+ % of their population currently without birth records.

QUESTION: What are the implications of these findings on your work and on ADB?

CAROLINE: Knowing that legal identity can impact poverty, it is one of the issues we should consider as part of the due diligence in preparing a Project.

For instance, in Nepal, we should be aware of the fact that for obtaining scholarships and to sit for national school leaving exams, birth records are required. Birth registration in Nepal is somewhere between 5 and 10% of the population, and the chances are even less if you are a girl, from a rural area, or from the dalit community. If we want to increase the chances that an education project in Nepal is truly inclusive, we also have to help potential students to obtain birth records or, alternatively, we need to have a policy dialogue with the Government on not requiring a birth certificate for getting, for example, scholarships. In other countries in the region, having a birth certificate is a requirement for participating in government sponsored immunization campaigns.

These are just two of the many examples to illustrate why, as an institution, we should be aware that in a significant number of the countries we work in, legal identity is linked to a lesser or bigger degree to accessing public benefits and opportunities. In designing projects, we should look for what can we do to mitigate this, to ensure that the groups we are trying to target are not being excluded.

QUESTION: What are your next steps with regard to this study?

CAROLINE: There will be a regional workshop in December in Phnom Penh. Invitees to the workshop will be government officials that are concerned with civil registration, budgeting departments of Ministries of Finance, representatives from Ministries of Women and Children Affairs and/or education, representatives from anti-corruption bodies, representatives from NGO's, selected ADB staff and staff of the Asia Foundation (the partner with whom the research was conducted), representatives from Plan and from UNICEF Cambodia.

The workshop will be centered around a number of themes such as (1) the relationship between legal identity and demographic statistics for development planning; (2) the relationship between legal identity and human rights; (3) the relationship between legal identity and access to services, benefits and

opportunities; (4) obstacles to obtaining legal identity; (5) alternative markets for identity documents; and (6) programmatic approaches: the sequencing dilemma.

There will also be a publication and some awareness-raising activities within ADB to see how this study can make a difference in the design of projects. Finally, we are discussing the possibilities for follow-up JFPR (Japan Fund for Poverty Reduction)-funded work.

QUESTION: How does the Office of the General Counsel, in general, contribute to ADB's poverty reduction efforts?

CAROLINE: This RETA is just one of the examples where OGC, and us as lawyers, can work together with regional departments to contribute to poverty reduction.

Studies done by ADB have demonstrated a close link between legal empowerment (which is the use of law to increase the control that disadvantaged people exercise over their lives) and poverty reduction. To illustrate, in the Philippines, agrarian reform efforts have turned out to be more successful in villages that had legal empowerment activities, as compared to those that had none. In Cambodia, a TA that raised public awareness of the new Land Law empowered the disadvantaged with knowledge of their rights under the new law. In Nepal, a gender equality project that worked towards making women economically and socially more empowered to take charge of their lives was strengthened by adding a complementary legal empowerment component including legal reforms, curriculum development, legal aid, awareness raising of women and vulnerable groups on their rights, capacity development for judges, prosecutors, paralegals and police, as well as community-level alternative dispute resolution.

In all these examples, OGC counsel teamed up with project teams to design project components and activities to do whatever we can to use the law for making lives better. #