

# Law and Policy Reform Activities in Support of Poverty Reduction: Highlights for 2003

## Introduction

Since 1993, the Asian Development Bank (ADB) has played a key role in law reform, legal and judicial policy reform, legal and judicial institutional reform, and legal empowerment initiatives in the Asia and Pacific Region (this work is collectively referred to by ADB as its “law and policy reform” activities). The Office of the General Counsel (OGC) has, in close partnership with the regional departments of ADB, initiated and administered about 70 projects involving law and policy reform activities. This includes the largest legal and judicial reform program ever undertaken by ADB—the Pakistan Access to Justice Program (AJP), which involves loans of over US\$350 million to work with the government of Pakistan on a battery of judicial, police, administrative and policy reforms.

OGC’s law and policy reform activities reflect ADB’s rededication in 1999 to poverty reduction as its overarching goal pursuant to its Poverty Reduction Strategy. In this strategy, ADB moved from using income levels as the chief indicator of poverty, toward a definition that accentuates equality of rights and opportunity:

“Poverty is a deprivation of essential assets and opportunities to which every human is entitled. Everyone should have access to basic education and primary health services. Poor households have the right to sustain themselves by their labour and be

reasonably rewarded, as well as having some protection from external shocks. Beyond income and basic services, individuals and societies are also poor—and tend to remain so—if they are not empowered to participate in making the decisions that shape their lives.”<sup>1</sup>

As a result of the Poverty Reduction Strategy, OGC has refocused its energies toward supporting law and policy reform activities that have an impact on reducing poverty by empowering the poor to contribute to local governance structures and decision-making processes affecting their livelihoods and basic rights. At the same time, OGC has continued to support initiatives designed to strengthen the enabling environment for sustainable economic growth, and improve governance. OGC’s law and policy reform activities have also nurtured change in law and policy reform through regional cooperation efforts.

OGC channels its law and policy reform work into four priority areas through activities that

- (i) strengthen the enabling environment for economic growth,
- (ii) 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,

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<sup>1</sup> ADB. 1999. *Fighting Poverty in Asia and the Pacific: The Poverty Reduction Strategy*. Manila.

- (iii) support equality of access to justice and non-discrimination in the application and enforcement of laws and policies, and
- (iv) contribute to regional cooperation in strategic areas of law and policy reform.

These priority areas support poverty reduction through complementary approaches that empower the citizen in their interactions with public and private sector institutions, create more efficient systems of regulation of public goods and services, create and administer more transparent and predictable systems of laws and dispute resolution, and ensure that those laws are implemented and enforced in an equitable and non-discriminatory manner.

## Highlights of Law and Policy Reform Activities in 2003

This section describes the major achievements in 2003 in the four priority areas mentioned above.

### Strengthen the Enabling Environment for Economic Growth

**Shaping New Laws for a Market Economy:** OGC's law and policy reform activities have supported strengthening of the enabling environment for private sector economic growth. These include assisting with the building blocks of economic activity such as supporting the drafting of new economic laws in transition economies, or the modernization and harmonization of economic laws in countries where the State and the private sector are assuming new roles. ADB has supported the drafting of new economic laws in virtually all of its developing member countries (DMCs), most recently in the following: People's Republic of China (PRC), the Kyrgyz Republic, Lao People's Democratic Republic, Mongolia, Nepal, Pakistan, and Tajikistan.

In the PRC, for example, OGC has been assisting the National People's Congress achieve its target of establishing in 10 years a legal framework suitable for a market economy. This assistance has included

- (i) legislation drafting support for an anti-monopoly law and research on unification of laws governing corporate organizations; (ii) unification of laws governing foreign invested enterprises and unification of both domestic and foreign invested enterprises under one corporate law system; (iii) land administration, property registration, and secured transaction for financing projects involving land development; and (iv) research and legislation drafting support for proprietary law, land law, and law on land administration.

**Strengthening the Judicial System:** An impartial and efficient judicial system is a critical element for sustainable economic growth and good governance. In 2003, Supreme Court chief justices, ministers of law and justice, leading academics, and civil society representatives participated in ADB's symposium on Judicial Independence, the final report of which follows. In the Philippines, 2003 also saw the finalization of recommendations for submission to the Philippine Supreme Court on the following: the judiciary's financial and administrative independence and accountability, the judicial nomination process and judicial career development, and the strengthening of the Philippine Judicial Academy's capacity to deliver continuing judicial education. These recommendations followed several consultations, meetings, focus group discussions, and presentations and workshops, which were held nationally, regionally, and with specific stakeholder groups—the recommendations had been presented at various stages of development to test their soundness and acceptability, and to encourage stakeholder inputs into the reform proposals. Technical assistance for improving the administration of the Supreme Court of Indonesia was approved in 2003 and will commence in 2004.

**International Trade:** Capturing the economic and social benefits of increased trade in goods and services is of central importance to many DMC governments. The Doha Development Round of trade negotiations under the World Trade Organization (WTO) will be a critical round of negotiations as developing countries are seeking significantly enhanced market access for their goods, in particular, agricultural goods. Eighteen DMCs are members of the WTO; 19 DMCs are not members, with 9 of these in the process of acceding to the WTO. In the