

Overview of ADB's Technical Assistance for Legal Empowerment

ADB's Poverty Reduction Strategy has shifted away from using income levels as the sole indicator of poverty. ADB now adopts a broader definition that encompasses equality of rights; protection against harmful or illegal practices; and access to existing resources, services, and opportunities. Development assistance is undermined when citizens face systemic obstacles preventing them from enforcing their rights and accessing productive resources, economic opportunities, and public services. The connection among poverty, governance, and empowerment is reflected in ADB's 1999 policy paper, *Fighting Poverty in Asia and the Pacific: The Poverty Reduction Strategy of the Asian Development Bank*. The paper asserts that:

[I]n ADB's view, poverty is a deprivation of essential assets and opportunities to which every human is entitled. 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.²

In view of poverty's tendency to self-perpetuate, ADB views legal empowerment as a way of enhancing the effectiveness of development assistance in helping improve the lives of disadvantaged groups. Providing legal empowerment in conjunction with ongoing development efforts helps citizens engage with legal and administrative institutions so they may address critical



The 2001 ADB legal empowerment study found that legal empowerment is most effective when used as a tool to improve people's daily lives, such as access to water, sanitation, or health care. It also found that engaging civil society organizations to work with local communities as well as government agencies and officials was an effective tool. In addition, it found that legal empowerment helps strengthen socioeconomic development efforts in a variety of areas, including natural resource management and conservation, rural development, land tenure, decentralization, and women's health. Also, prospects of certain sector development initiatives achieving their intended goals actually increase where a legal empowerment component is incorporated.

² ADB. 1999. *Fighting Poverty in Asia and the Pacific: The Poverty Reduction Strategy of the Asian Development Bank (R179-99)*, p. 5.

impediments that prevent them from participating in and benefiting from development assistance.

Previous ADB Work on Legal Empowerment

In 2001, ADB engaged TAF to conduct a seven-country study that examined the present and prospective role of legal empowerment in advancing good governance and poverty reduction.³ The study examined the key constraints preventing disadvantaged groups from accessing legal, administrative, and governance mechanisms and, consequently, limiting the success of poverty reduction efforts. It also analyzed successful legal empowerment projects and identified in those projects common features and effective strategies for overcoming challenging conditions. The study provides concrete guidance and recommendations on how to design, implement, and assess the impact of effective legal empowerment projects.

The Foundation tested the 2001 ADB legal empowerment study's recommendations under a variety of pilot program initiatives. One such initiative was the Indonesia Irrigation Sector Legal Empowerment Study (2001–2003), which the Foundation undertook in conjunction with ADB. The Government of the Netherlands also provided financial support. This project employed a legal empowerment approach to promote greater citizen participation in the context of a national integrated water management project. It featured a series of pilot projects that demonstrated that legal empowerment activities helped advance the goals of the host water sector projects. While previous research has indicated that legal empowerment can contribute to poverty reduction and improved governance standards, it has also questioned the causal nature of these connections, as well as the most effective modalities for achieving these desired outcomes, particularly in the context of large-scale development projects.

Innovative Features of the Project

Building on the recommendations of the 2001 ADB legal empowerment study and its call for further

research, the project aimed to refine understanding of legal empowerment and test its potential to result in more inclusive development. Under the project, pilot legal empowerment initiatives were implemented in Bangladesh, Indonesia, and Pakistan. These pilot projects aimed to enhance the effectiveness of socioeconomic development projects in reaching their target beneficiaries, including women and disadvantaged groups.

The project advanced legal empowerment work to date with two innovative features: (i) integrating legal empowerment in socioeconomic development projects, and (ii) implementing a rigorous evaluation methodology that compared results in geographic areas where pilot legal empowerment activities were undertaken with control areas (or control sites) in which no legal empowerment work was undertaken. These features are summarized below and presented in greater detail later in the report.

Integrating Legal Empowerment and Mainstream Development

One of the project's key questions was: can adding a legal empowerment component enhance the impact of development assistance by helping to ensure that women and disadvantaged groups can use legal and administrative processes and structures to access resources, services, and opportunities?

Often there is a gap between the objectives of socioeconomic development projects and their results. This may be, in part, because of the fact that their success relies on the active engagement of key stakeholders, including both citizens and local-level officials. It is often the case that these individuals lack the knowledge, skills, confidence, or motivation to participate in ways that are envisioned in the project documents. Legal empowerment can help bridge this gap by providing vulnerable groups with the information, training, assistance, and confidence that they need to enforce their legal rights and harness existing and new opportunities presented through mainstream development initiatives, while providing public officials with information and practical guidance that will help them to better fulfill their roles and responsibilities in administering development programs.

The project examined the legal and administrative requirements for citizens to access the benefits provided under ADB loans in the three project countries.

³ Footnote 1.

A common research instrument was developed to capture and track indicators of legal empowerment, including levels of knowledge and confidence, strategies employed by vulnerable groups to enforce their rights, and outcomes achieved. The instrument was indigenized to capture unique features of each of the three pilot projects in terms of country context, ADB host project, and legal empowerment interventions. While previous studies have noted correlations between legal empowerment and indicators of improved governance and reduced poverty, the methodology developed for the project aimed to examine causal relationships. It asked: can changes observed be attributed to legal empowerment interventions?

In this context, legal requirements refer to conditions or requirements that are prescribed by law, while administrative requirements refer to the procedural steps to be followed by prospective or target beneficiaries under the administrative structure of an ADB loan or associated government rules and regulations. Legal empowerment pilot initiatives were then developed to address potential obstacles to participation by strengthening the capacity of women and disadvantaged groups to navigate relevant legal and administrative processes.

Research Methodology

A distinctive feature of the project was the development of a rigorous evaluation methodology, which employed empirical tools to measure the impact of legal empowerment. The research methodology, which was implemented in both project and control locations, sought to establish an empirical basis for understanding if and when legal empowerment would lead to an improved quality of life for women and other disadvantaged groups. A more detailed description of the research methodology and key findings is provided in Chapter 4.

Overview of the Project

The sections below provide a brief summary of the project's various phases.

Country Situation Analysis Reports

The project involved an initial research phase, during which sociolegal consultants in each of the three countries were engaged to undertake CSAs and document their findings in reports. The reports were intended to enhance the knowledge base of the country program environments for legal empowerment and guide the selection, design, and implementation of the three pilot legal empowerment initiatives. The CSA reports identified the range of public and private agencies involved in legal empowerment activities, assessed their relative strengths and weaknesses, and influenced the design of pilot projects implemented through the project. Draft versions of these reports were disseminated to relevant government and civil society stakeholders for comments and feedback, which were then incorporated into the final versions. Appendix 2 provides summaries of the CSA reports.

Country Consultations

In June and August 2007, the project team held workshops in Dhaka, Jakarta, and Islamabad. They presented background on the project and the findings and recommendations of the CSA reports. Participants included legal empowerment practitioners, academic specialists, government officials, and representatives of donor agencies. The CSA reports were revised on the basis of participant inputs, while the design and implementation of the pilot legal empowerment projects—described as follows—also took account of the workshop proceedings.

Identifying Appropriate ADB Host Projects

The second phase of the project involved designing pilot legal empowerment projects. The first step in designing pilot legal empowerment initiatives required reviewing current ADB country project portfolios for the three countries to assess the potential for legal empowerment to enhance project performance. The basic criteria for determining whether to initiate a legal empowerment component included reviewing the laws, regulations, and procedures governing access to resources, basic social services, and opportunities. Some questions that were considered included:

- (i) Does the mainstream development project touch on any administrative or legal process that might pose obstacles to intended beneficiaries?
- (ii) Must beneficiaries apply through formal procedures to gain access to the resources, basic social services, and opportunities provided by the project?
- (iii) If the implementing agency is a government entity, what sort of administrative procedures or legal documentation are required to gain access to resources, basic social services, and opportunities?

Legal empowerment can be especially useful if accessing benefits that a project is intended to confer involves navigating complex legal and procedural requirements. It is not only women and disadvantaged groups that find these processes daunting; in many cases, even the local officials responsible for administering a project are not completely comfortable with charting a course through the maze of laws and procedures, and will benefit from practical guidance. In selecting ADB projects for legal empowerment projects, the following criteria were taken into account:

- (i) the strategic value of specific sector areas of focus in each country,
- (ii) the legal framework and institutions in which activities are undertaken,
- (iii) government agencies involved,
- (iv) intended beneficiaries,
- (v) potential partnerships between government agencies and civil society organizations,
- (vi) anticipated impacts on women and disadvantaged groups,
- (vii) practical operating modalities for the legal empowerment pilot initiatives, and
- (viii) relevant experiences of other development partners.

Pilot Projects

Based on the project team's analysis of these criteria, and extensive consultation with ADB counterparts in Manila, Dhaka, Jakarta, and Islamabad, legal empowerment pilot projects were initiated in the context of the following ADB sector development projects: the Second Small-Scale Water Resources Development Sector Project (SSSWRDSP) in Bangladesh; the Neighborhood Upgrading and Shelter Sector Project (NUSSP) in Indonesia; and the Sindh Devolved Social Services Program (DSSP) in Pakistan. Further information on each of these ADB loans and the complementary pilot legal empowerment initiatives is provided in Chapter 5.

Monitoring and Evaluation

The monitoring and evaluation effort aimed to shed light on the connections (or lack thereof) between legal empowerment and improved governance and poverty alleviation. Standard research instruments and protocols were developed and implemented in conjunction with the three pilot projects. The monitoring and evaluation effort required an initial training phase to ensure that the researchers had the understanding, skills, and sensitivity to implement the research methodology effectively. It also involved conducting baseline and end-of-project research in two project sites and one control site in each of the three project countries, together with supplementary qualitative interviews, where necessary, to expand the finer points of the quantitative data. Chapter 3 and Appendix 3 provide a more detailed description of the research methodology and findings.

Supplementary ADB Portfolio Review

In addition to the individual country portfolio reviews that guided the selection of the pilot project, the regional technical assistance included a supplementary ADB portfolio review that was conducted during the final phase of implementation. The supplementary review in the three focal countries aimed to identify project activities holding the greatest potential for incorporating legal empowerment pilot program components that could serve as demonstration models for future replication and expansion. A portfolio review consultant interacted with members of the project team, ADB's project manager, and program staff of ADB headquarters and resident

missions, and reviewed ADB's portfolio of projects⁴ in the three focal countries to identify opportunities for incorporating legal empowerment components into mainstream and sector-specific development projects.

The review identified criteria that could be used to select those activities with the greatest potential to act as models for future replication. It also developed strategies for integrating legal empowerment components. In recommending ADB activities, the review took account of the intended beneficiaries, with a special focus on those projects with the potential to reach large beneficiary populations of women, especially poor and vulnerable and/or at-risk women; potential partnerships, including women's groups and nongovernment organizations (NGOs) promoting gender equality, women's departments or ministries, or other relevant organizations and agencies; legal framework and institutions in which activities will be undertaken; government agencies involved; anticipated impacts on vulnerable groups (in particular, the impact on gender equality and women's empowerment); strategic value of separate sector areas of focus in each of the three countries versus a single target area of focus; practical operating gender inclusive modalities for the legal empowerment pilot initiatives; and relevant experience of other multilateral and bilateral development agencies, including the United Nations Development Programme (UNDP), World Bank, and other agencies.

Regional Conference

The Regional Conference on Legal Empowerment for Women and Disadvantaged Groups was held at ADB in Manila on 13–14 December 2007. The conference aimed to enhance understanding of legal empowerment, regional and international practices in legal empowerment, and challenges and opportunities in designing and implementing legal empowerment projects. The conference was attended by ADB staff, members of the project team, government officials, partner NGOs, academics, and legal empowerment practitioners from the region and the broader international community. Sessions included presentations;

open discussions; and participatory exercises to facilitate thinking about the design, implementation, and assessment of the impact of effective legal empowerment initiatives. Conference participants' feedback was very useful and has shaped this report and other project deliverables.

Capturing Project Lessons in Practical Terms

To encourage local organizations and development partners in the focal countries to use legal empowerment strategies effectively, it is critical to document and disseminate the project's key findings in clear, nonlegal language. By avoiding the use of legal terminology, ADB aims to make it easier for nonlawyers working for domestic legal service providers, development organizations, ADB, and other development partners to implement and integrate the findings and recommendations in their future work.

The project's keys experiences are documented in this report as well as a practical handbook, *Good Practices Guide for Incorporating Legal Empowerment into Operations*.

This practical handbook aims to provide an enhanced understanding of legal empowerment issues and practical strategies for developing, implementing, and monitoring legal empowerment projects, and to thereby advance the goals and impact of sector development projects. The handbook begins with a background and conceptual framework on legal empowerment that (i) describes the importance of legal empowerment and its potential role in advancing the broader development goals of ADB operations; (ii) summarizes the constraints facing women and other disadvantaged groups that affect the quality of their participation in development initiatives and the benefits that they derive from them; and (iii) describes different levels of legal empowerment interventions and ensuing benefits, and the role of legal empowerment in sector development initiatives. The handbook then discusses the strategic factors for consideration and the approach to follow in designing and implementing a legal empowerment component in a sector development project. It uses tables and flow charts to summarize the steps to be followed, and provides guidance on developing and applying rigorous empirical tools to monitor and assess the impact of legal empowerment

⁴ The portfolio of projects refers to current projects in the early phase of implementation and those in the pipeline with potential interest.

activities. Appendixes targeting the specific needs of NGOs are attached.

NGOs undertaking (or considering undertaking) legal empowerment work can use this handbook to improve their understanding of what legal empowerment is and how to implement legal empowerment strategies. The handbook focuses on providing practical strategies for developing, implementing, and monitoring legal empowerment projects. The strate-

gies will help NGOs to advance the goals and impact of sector development projects. The handbook also aims to make it easier for ADB program staff and their counterparts to work together. It cross-references the factors applied by different organizations in their legal empowerment work, helping to forge effective working partnerships and advancing the goals and outcomes of legal empowerment interventions in sector development work.