

Conclusions and Recommendations

Reflecting on Objectives and Key Questions

The objectives of the project were to

- (i) identify and test effective legal empowerment strategies and methodologies to increase women and disadvantaged groups' access to basic social services and productive resources; and
- (ii) promote increased incorporation of legal empowerment components under ADB loans by disseminating practical lessons learned for use by ADB staff, governments, nongovernment organizations (NGOs), and funding agencies.

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

Within the reasonable limitations of a 2-year project period, the project has met its first objective of identifying and testing legal empowerment strategies that will help women and disadvantaged groups access basic social services and productive resources. The project team designed the project activities after national and regional best practices and the experience of the NGO legal service partners, government counterparts, and ADB host project personnel. It is hoped that the lessons learned and experience gained under the project will encourage the incorporation of legal empowerment components within ADB loans and the activities of other development partner organizations. In particular, the design and testing of specialized monitoring and evaluation (M&E) tools may prove useful in future ADB loans.



Advancement of Knowledge and Practical Experience

The project has contributed to ADB, other bilateral and multilateral development agencies, and other development professionals in Bangladesh, Indonesia, and Pakistan by advancing their knowledge and practical experience in this field. The project is ADB's second formal focus on legal empowerment and builds on its 2001 legal empowerment study. It is significant that since 2001, legal empowerment as a concept has achieved a higher profile in the development sector, accompanied by the substantial expansion of practical experience reflected in the three country situation analysis (CSA) reports.

Keen Domestic, Regional, and International Interest in the Project

The project team was especially struck by the interest taken in the project by legal scholars, practitioners, and

donor agencies in the three countries. The project team received numerous inquiries from around the world by individuals and agencies seeking more information on the project. Additionally, the December 2007 regional conference was attended by representatives from numerous countries other than the three focal countries, showing broader regional and international interest and participation in the legal empowerment concept. The project experience affirms the increasing significance of legal empowerment and the more sophisticated conceptual framework and depth of practical experience on which it rests in 2008 compared to 2001.

More Sophisticated Analysis and Understanding of Legal Empowerment

One of the most encouraging aspects of the growing interest in legal empowerment is the movement of analysis along the same vertical band or ascending scale described in the conceptual framework included as Appendix 1. Increasing emphasis is placed and attention devoted to understanding the higher order elements of legal empowerment that move beyond basic awareness raising and individual legal problems to focus on community capacity and confidence building.

There was variation in the three focal countries regarding issues encountered and insights drawn in conducting research, implementing pilot projects, and applying a rigorous M&E methodology. However, some common threads of experience and lessons learned emerged.

Lessons Learned from the Pilot Legal Empowerment Projects and Specialized Monitoring and Evaluation Methodology

Milestone Investment in Pilot Legal Empowerment Projects and a Specially Designed Monitoring and Evaluation Methodology

There are two distinguishing features of the project: (i) the allocation of resources and technical support for pilot projects that integrated legal empowerment components in three ADB loans; and (ii) the development of

a specialized M&E methodology that compared impact in pilot project intervention areas and nonintervention control areas. These features were recognized and appreciated in each country. The post-CSA consultative workshops were well-attended, and many of those who joined the consultative dialogue from government, civil society, and academia stayed in touch with the country technical assistance teams over the course of the project. While the three pilot projects shine relatively modest light in a broader universe of development activities, they marked the first time that legal empowerment activities (guided by unified design and M&E protocols) were implemented concurrently in three countries in the context of ADB loan facilities. The project team believes that the most significant contributions to this project are the M&E protocols, and the lessons that can be drawn from the challenges faced in applying the methodology in three countries. These are reported in detail in Appendix 3, as well as in the Good Practices Guide for Incorporating Legal Empowerment into Operations.

Monitoring and Evaluation Methodologies Have Not Kept Pace with Program Developments in Legal Empowerment

The CSA exercise gathered valuable information on legal empowerment developments in the three countries. The CSAs noted that aspects of the country context and program environment had changed relatively little in the 5 years since the 2001 ADB legal empowerment study. In particular, it was found that M&E strategies had evolved relatively little. Most methodologies continued to count basic outputs rather than seeking to understand the impact of legal empowerment activities on governance reform and poverty reduction—that is, how legal empowerment affects quality of life beyond the individuals served. Appendix 3 contains information on further lessons learned and recommendations.

Recommendations

Need for Ongoing Investment in Monitoring and Evaluation

The M&E methodology was specifically designed to measure the impact of legal empowerment projects

This report's overarching recommendation for legal empowerment work is that ADB and other international agencies place less emphasis on general situation analysis and greater emphasis on pilot program activities and specialized monitoring and evaluation systems. In particular, it encourages concentrated investment in pilot program activities and developing specialized monitoring and evaluation methodologies that are specifically designed to assess the higher-order impact of legal empowerment programs. This is especially important in the context of legal empowerment interventions that are integrated in the sector program work of ADB and other international agencies. This is because in sector-program work, managers and resource managers frequently insist on convincing empirical evidence of the value of legal empowerment in advancing sector development goals that are constrained by rights and access to justice issues that prevent program beneficiaries from accessing resources, services, and opportunities.

in advancing the goals of the host ADB loans. The project team believes this was the first methodology of its kind developed to measure the impact of legal empowerment activities that are integrated in sector development programs. As such, while the methodology is a significant first step, further effort is needed to develop and test M&E methodologies in the future, learning from project experience described in Appendix 3. This recommendation is naturally premised on the broader recommendation that ADB and other development partners continue to support the integration of legal empowerment activities in their sector program work.

One of the key features of the project's M&E strategy was to move away from the conventional practice of counting basic outputs. Instead, the project team focused on understanding the higher-order impact of legal empowerment in advancing the governance reform and poverty reduction goals of ADB loans. It is also important that practitioners treat this kind of work as a learning experience and report candidly on the positive results achieved and challenges faced in implementing legal empowerment activities. A key question posed regarding applying the specialized M&E meth-

odology under the three pilot legal empowerment projects was: can changes observed be attributed to legal empowerment interventions? Care must be taken to modestly draw conclusions from the work undertaken given the narrow confines of the pilot projects of 1 year or less in duration. However, it seems clear that certain positive changes observed in the experience of women and disadvantaged groups in the pilot project intervention areas are linked to the legal empowerment interventions. The connection was particularly significant in the case of changes in the strategies followed by women and disadvantaged groups in advancing their rights and interests.

It is essential that those involved in legal empowerment activities share information and learning, particularly those pioneering the integration of legal empowerment in sector development programs. Committing to exchanging information in good faith will ensure that others can benefit from individual efforts. It will also help legal empowerment practitioners, government counterparts, legal and development scholars, and international agencies collectively develop a common base of knowledge that can be shared, discussed, and enhanced as legal empowerment activities expand in Asia and internationally.

Importance of Cooperative Working Relations among All Stakeholders

The pilot-project experience yields important lessons for future work of this kind. It is essential to develop strong and cooperative working relationships between the designers and implementers of legal empowerment activities and their ADB and government counterparts. The legal service NGO partners that implemented the pilot projects generally received strong and timely support from ADB counterparts, particularly in taking account of how busy ADB sector-program managers are and their lack of experience in the specialized field of law and development. It is also fundamental to develop a common terminology that describes legal empowerment concepts and documents experience in practical terms that are readily understood by all involved. To encourage the continued incorporation of legal empowerment in sector development work, teams must share their experiences in ways that underline the value of legal empowerment in contributing to such projects.

The quality of working relationships with government counterparts varied from country to country and context to context. The project team noted that certain challenges were frequently encountered when working with government counterparts on legal empowerment projects.¹⁷ In particular, the very term “legal empowerment” tends to cause concerns among government counterparts, who worry that legal empowerment interventions may affect the traditional power advantages that government officials and elites have over marginalized populations.

Government counterparts may be wary of the notion of empowerment, concerned that it will require that they surrender traditional power advantages, be subject to legal pressures from legal empowerment practitioners, face criticism, or otherwise be compelled to relinquish benefits or privileges that they have enjoyed as a result of their traditional role and relationship with disadvantaged populations. In some instances, their concerns are actually well-founded. The challenge lies in convincing hesitant government officials that, while their traditional power advantages may indeed need to change or be reevaluated in certain ways, there are other incentives from which their reputations stand to benefit if they are supportive of legal empowerment initiatives.

Value of Information Sharing

Legal empowerment work relies upon developing complex and mutually reinforcing working relationships between varying parties. If the work is to evolve, it is essential that legal empowerment practitioners work in a transparent manner, meeting regularly with government counterparts to share information, and encourage public officials and agencies to develop a sense of ownership in the work. A positive working relationship of this kind is critical to the success of legal empowerment initiatives, with program implementation shaped by a combination of goals and considerations

of importance to all stakeholders. A positive attitude on the part of government counterparts will also encourage women and other disadvantaged groups that are intended to benefit from a legal empowerment activity to participate in project activities. For legal empowerment to be effective, effective and functioning government institutions are required. Even the most confident and knowledgeable person is unlikely to enforce their rights if they have no confidence in the institutions charged with protecting those rights.

Selection of Pilot Project Sites

The pilot-project experience further affirms that great care and consideration must be taken in selecting the project location. In Bangladesh, the pilot-project site was selected because of a combination of factors, including the choice of a geographic area in which the legal service NGO partner had an operating base. In retrospect, an ideal pilot-project location would have been one in which the ADB host project had been working for a longer period and reached certain milestones in the sequence of implementation.

Legal Empowerment is a Long-Term Process That Warrants Extended Investment

It is important to appreciate that legal empowerment is a long-term process and that the best results are achieved over time. It was understood by ADB counterparts and the team from the outset of the project that the time and resources available for the pilot projects were quite modest and that expectations for measurable impact in the short term should be kept similarly modest. ADB counterparts were extremely generous in extending additional time for the pilot projects when the selection and preparatory start up process required more time than originally anticipated. Moreover, as described in Appendix 3, some striking results were, in fact, achieved in a relatively short period of time. But these results mostly hint at, rather than conclusively affirm, the impact of legal empowerment in the context of sector development programs. Future resource allocations by ADB and other international agencies should provide ample time to design, implement, monitor, and assess the impact of pilot legal empowerment projects, and ideally afford opportunities to implement pilot activi-

¹⁷ The Asia Foundation. 2002. *Indonesia Irrigation Sector Legal Empowerment Study—Program Strategy and Implementation Plan for the Integration of a Legal Empowerment Component In the Participatory Irrigation Sector Project*. San Francisco. The team made these observations based on its experience working on the pilot projects under the project and also from the Foundation’s earlier experience with the Indonesia Irrigation Sector Legal Empowerment Study (2001–2003).

ties in a variety of contexts so that comparisons can be drawn among activities implemented in a variety of circumstances.

Legal Empowerment Advances Sector Development Goals

Together with the 2001 ADB legal empowerment study, the project affirms the value of legal empowerment in advancing governance reform and poverty reduction, and in supporting the achievement of sector program goals. This latter area holds the greatest potential as the new frontier of legal empowerment, and ADB and other international agencies are encouraged to invest in projects that will advance the integration of legal empowerment in sector development programs.

Next Steps

The project provided ADB with a unique opportunity to select NGO legal service partners and core stakeholders to pilot test legal empowerment projects and assess their impact using a specially designed M&E methodology. While the pilot projects are a modest step implemented within a narrow time period, their results support the further integration of legal empowerment in the program operations of ADB and other development partner agencies. The *Good Practices Guide for Incorporating Legal Empowerment Components into ADB Operations* provides further background and practical guidance for future legal empowerment work. It is hoped that this handbook will serve as a resource that is regularly updated through inputs by ADB program specialists, NGO practitioners, and other users to take account of the experience and lessons learned of those who use them.

ADB also conducted an internal portfolio review as part of the background to this report. The review applied a series of criteria in identifying potential ADB host projects in Bangladesh, Indonesia, and Pakistan, including existing projects and those in pipeline development. While the review was concerned primarily with the three focal countries under the project, the basic criteria extended to ADB operations throughout Asia. The portfolio review also considered the key findings and recommendations of working groups formed during the December 2007 regional conference. The

groups recommended applying the project findings, draft guide, and handbook in designing legal empowerment activities based on the context of two pending ADB loans in Bangladesh and the Philippines.

Set out below are the key findings and recommendations of the portfolio review.

Key Findings of the Portfolio Review

While some good practices have been established in the design and implementation of gender and legal empowerment activities in particular projects, there is no coherent approach to legal empowerment in ADB country portfolios. While country gender assessments provide an analysis of gender and legal empowerment issues and strategies, they are not systematically integrated into the country partnership strategies. This first finding is in no way a criticism of ADB, but simply identifies an area of opportunity for future planning as ADB places increasing emphasis on the importance of legal empowerment.

Program loans can and do play an important role in creating an enabling environment for gender and legal empowerment interventions. Although legal empowerment activities may be specified in the gender action plan, main body of the report and recommendation to the President, or in the project design for certain ADB activities, these activities tend not to be consistently incorporated into the design and monitoring framework or the project performance management system. The implication is that legal empowerment opportunities that could have a significant impact on loan performance and outreach to women and disadvantaged groups may go unfulfilled or fall short of potential.

The quality of knowledge of legal empowerment—including concepts, framework, and the type of activities that constitute legal empowerment—tends to vary among ADB project specialists and staff. This is natural given that ADB officers are busy with other project responsibilities and in most cases have no formal legal background or exposure to legal empowerment work. But, there is an urgent need for project officers and team leaders to understand and be aware of the relevance of legal empowerment activities to their projects so that they can design and implement gender and legal empowerment activities effectively. Where the project officer and/or team leader agree that

legal empowerment is an important consideration for effective project implementation, the next challenge is finding the expertise and resources to implement it.

The following sectors and subsectors provide a significant number of opportunities and entry points to incorporate gender and legal empowerment activities: health, education, water and sanitation, agriculture and natural resource development, and small-scale urban infrastructure development. These particular sectors and subsectors tend to be especially important to women and other marginalized groups, and tend to feature administrative and other decision-making mechanisms in which women and disadvantaged groups have traditionally been unable to assume a significant role. At the same time, all sectors potentially hold opportunities for the incorporation of gender and legal empowerment activities.

Projects with mainstream gender considerations provide more effective strategies for women's and community empowerment and are, therefore, more conducive to incorporating legal empowerment elements. Conversely, incorporating legal empowerment activities as an element of broader gender strategies enhances women's empowerment.

Where gender and legal empowerment components and activities are incorporated into existing projects, there is a tendency to focus on those activities that raise men's and women's awareness about their rights, and access to services and other benefits. This is an important first step in a long-term process. However, legal empowerment is concerned with raising awareness and increasing the capacity and confidence of the entire community—women and men—to better advance their rights and entitlements to resources, services, and opportunities.

The ways in which these activities impact on women and men in the community can only be established over time. For example, training government agencies on gender and development policy does not automatically lead to women's legal empowerment; neither does fostering women's representation in water user associations, school committees, and other local structures. But, if these activities are sustained over time, and combined with other activities that challenge traditional views on the role and capacity of women and disadvantaged groups to participate in community development, they are more likely to achieve a positive impact on increasing

women's empowerment. While ADB projects are evaluated after completion, impact assessment of emerging legal empowerment activities is not systematically and comprehensively undertaken.

Projects that have a strong focus on good governance provide greater opportunities for incorporating legal empowerment activities. Strengthening governance to ensure that it is gender-sensitive, transparent, and participatory is a key component of an effective legal empowerment strategy. Integrating good governance as a strong crosscutting theme into all sector investments contributes to enhancing the legal empowerment of women and men in the community.

Based on the portfolio review and the project's pilot-project experiences, ADB considers that local government structures are not necessarily more conducive to gender and legal empowerment opportunities. They too can be dominated by powerful parties with vested interests that block and undermine community empowerment. However, making these local structures more transparent and accountable is a necessary precondition for community empowerment. National policy reform plays a significant role in fostering an enabling environment that can provide community members with the leverage required to engage and reform local governance structures. Projects with incorporated gender-inclusive, community-based, participatory approaches provide greater scope for legal empowerment activities.

Recommendations

The portfolio review affirmed that the present ADB portfolio and pipeline project plans hold significant potential for integrating legal empowerment activities. While some ADB projects have a more specific focus on women and disadvantaged groups, virtually every ADB project includes women and disadvantaged groups among broader beneficiary populations. ADB has made significant progress toward subjecting every new project to rigorous gender analysis. This analysis may be drawn on to inform the design of integrated or associated legal empowerment projects.

The need and opportunities for legal empowerment can be affirmed by the portfolio review. Then, the legal empowerment's project design and implementation can draw on (i) the findings and recommendations of the project, including the core findings and

recommendations reported in Chapter 5 of the main report; (ii) pilot legal empowerment project experience documented in Chapter 4 and Appendix 3; and (iii) practical suggestions provided in Good Practices Guide for Incorporating Legal Empowerment into Operations.

Many factors can affect the success of a legal empowerment project. But, the prospect of success is enhanced by thoughtful planning, sound empirical research, strong partnerships, good communication, and investment in rigorous monitoring and evaluation methodologies.

Thoughtful Planning

Legal empowerment projects need careful planning and resource allocation regardless of whether they are integrated into an existing or planned ADB project. Although the pilot-project experience affirms that a legal empowerment activity can be added to an ongoing project, it is better to incorporate a legal empowerment strategy as part of the original program design. Ideally, the strategic planning process should take careful account of (i) the host project's goals; (ii) the legal, administrative, and other challenges that women and other disadvantaged groups are likely to face in accessing project benefits; (iii) any resistance that is likely to be encountered from counterparts in government or other sectors; (iv) strategies to address resistance to the project; and (v) the steps to be followed in implementing the legal empowerment component. The last factor needs to address whether legal empowerment activities will be introduced on an incremental basis and extended to different project areas over a period of months or years.

Sound Empirical Research

The project experience affirms the importance of basing legal empowerment project design and strategic considerations on sound empirical research. Qualitative and quantitative research are needed to develop a proper understanding of (i) the issues to be addressed; (ii) the experience and views of different stakeholder groups (including project beneficiaries, government agencies and officials, and local elites and other persons of influence); and (iii) a baseline of conditions, stakeholder status, and experiences as they exist at the start of the project from which to assess changes and results over time.

Strong Partnerships

Successful legal empowerment strategies depend on the joint efforts of different stakeholder groups. Civil society organizations have tended to play a pioneering role in legal empowerment activities. But, the importance of government officials and agencies to the success and sustainability of legal empowerment work is increasingly recognized. An integrated legal empowerment project should aim to engage the planning, implementation, and impact assessment inputs of multiple stakeholders. It also needs strong government involvement and practical representation in planning and decision making.

Good Communication

Good communication lies at the heart of strong partnerships in legal empowerment project design and implementation. Stakeholders typically come to a cooperative working relationship with certain experience, understanding, and expectations, some of which reflect actual circumstances while others reflect simple misunderstanding or lack of exposure. Legal empowerment depends on the cooperative efforts of civil society, government officials, beneficiary or local partner communities, and ADB program staff, and good relationships will strengthen this process. This is one of the key lessons learned in the pilot legal empowerment projects—in several cases, the progress and potential impact of activities was hindered by poor communications between the NGO legal service organizations and their government counterparts.

The need for developing good communication processes also extends to ADB operations. ADB program personnel need to understand the benefits of legal empowerment and its potential to improve sector program outcomes. To do this, legal empowerment strategies must be made more agreeable to ADB sector project managers by distilling the complex concepts into practical terms that can be readily understood. By doing this, ADB sector project managers who have no experience with legal empowerment and limited time to engage outside of their specific professional areas of focus are more likely to incorporate legal empowerment strategies in their projects.

Rigorous Monitoring and Evaluation

Legal empowerment initiatives will probably be held to a high standard of performance and scrutiny. This

is because the initiatives propose that they can lead to (i) women and other marginalized groups having advanced rights and other economic opportunities, (ii) governance reform, and (iii) poverty reduction. These are significant aspirations.

Previously, legal empowerment practitioners have tended to count basic outputs rather than designing M&E strategies aimed at understanding the impact of legal empowerment in the context of higher-order

governance reform or poverty reduction. The pilot legal empowerment projects adopted a new approach. The project team designed M&E strategies specifically aimed at measuring the impact of project activities on the performance of the host ADB loan. Given the success of this approach, it is recommended that this rigorous model be followed in future legal empowerment activities that are integrated in host ADB sector program activities.