



Technical Assistance Report

Project Number: 39301
December 2006

Access to Justice for the Urban Poor

ABBREVIATIONS

ADB	–	Asian Development Bank
DMC	–	developing member country
RETA	–	regional technical assistance
RSDD	–	Regional and Sustainable Development Department

TECHNICAL ASSISTANCE CLASSIFICATION

Targeting Classification	–	Targeted intervention
Sector	–	Law, economic management, and public policy
Subsector	–	Law and the judiciary
Themes	–	Governance, inclusive social development, gender and development
Subthemes	–	Civil society participation; other vulnerable groups; gender equity, empowerment, and rights.

NOTE

In this report, "\$" refers to US dollars

Vice President	K. Pholsena, Finance and Administration
General Counsel	A. Mitchell, Office of the General Counsel
Deputy General Counsel	E. Fischer, Office of the General Counsel
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I. INTRODUCTION

1. The regional technical assistance (RETA) is designed to collect, analyze, and disseminate knowledge from and among Asian Development Bank (ADB) developing member countries (DMCs) and ADB staff related to good practices and supporting policies for access by the urban poor to justice through grievance and dispute prevention and settlement mechanisms. The substantive focus of this knowledge product will be on initiatives and measures to handle grievances and conflicts that typically and inevitably arise as a result of urbanization and urban development.¹ These include grievances and conflicts that may arise in relation to land and housing issues; access to basic goods and services, including utilities such as water and power (referred to as urban assets); and violence against vulnerable groups. The RETA framework is in Appendix 1.²

2. The Office of the General Counsel prepared the concept paper for the RETA and submitted it as part of its knowledge products and services work plan for 2006–2008.³ The vice president for finance and administration cleared the concept paper on 16 May 2005, and it is included in the 3-year ADB-wide knowledge products and services work plan (2006–2008) approved by the President on 3 October 2005.

II. ISSUES

3. Rapid urbanization and urban development are key challenges that almost all ADB DMCs face. Urban development is a key area of intervention for ADB,⁴ and ADB's urban sector strategy expressly supports improvements in the rights situation of urban dwellers.⁵ The strategy recognizes the need to reduce urban poverty through the creation of employment and the provision of credit for informal businesses, education and literacy training, legal tenure to informal settlers, improved social and infrastructure services and access to shelter, and support for better human rights (including the right to vote in electing representative government and to organize at the community level).

4. ADB's approach to implementing the urban sector strategy has involved decentralizing the delivery of basic services to the urban poor. Participatory approaches have been identified as being particularly relevant in reducing urban poverty and in improving service delivery.⁶ However, to date, little attention has been given to decentralizing accessibility to and delivery of justice, establishing efficient and effective grievance procedures when decentralized service delivery fails, and facilitating people's participation in the resolution of conflicts and disputes relating to urban assets and safety. At the same time, as more people move from rural to urban areas and cities expand into previously rural areas, population pressures and the disruption of existing social, cultural, and religious patterns of people's lives may result in poor urban

¹ Urban development in this context is not equated with urban development projects in ADB, but also refers to the more general concept of growing and expanding cities.

² The TA first appeared in *ADB Business Opportunities* on 15 November 2006.

³ The original title of the RETA was Enhancing Access to Justice through Improvement of Justice Delivery Systems. The title was changed to clarify the RETA's focus.

⁴ Urban infrastructure is a priority subsector under the Medium-Term Strategy II (ADB. 2006. *Medium-Term Strategy II*. Manila).

⁵ ADB. 1999. *Urban Sector Strategy*. Manila (para. 29, page 10).

⁶ See, for example, ADB. 2005. *Technical Assistance Completion Report for RETA 5926: Public-Private Community Partnerships in Urban Services for the Poor*. Manila: "[T]he inclusion of NGOs and community groups in a well-defined framework that specifies the roles of participating stakeholders greatly improves the chances of success in extending services to all."

communities becoming flash points for unrest.⁷ ADB's urban sector strategy points out that urban poverty is worsened by the speed of urbanization and that local governments cannot keep pace.⁸ In most DMCs, the urban poor must compete to survive in a situation of scarce resource allocation. According to the urban sector strategy, "Biases in investments, standards, pricing policies, and institutional structures often skew services in favor of the better-off in cities."⁹ Against this backdrop, individual grievances and disputes are unavoidable and need to be resolved quickly and fairly if they are not to escalate.

5. Resolving these conflicts through formal justice institutions is difficult for the urban poor, who lack the capacity to pay for legal counsel to guide them in protecting their rights and maneuvering through the legal system. Often, the urban poor may simply not possess the basic requirements to start judicial proceedings. Consequently, they are vulnerable to abusive behavior by corrupt officials, because the poor's capacity to understand the legal system is weak. In addition, while informal, traditional, or customary justice systems may be more accessible or better understood and trusted by local communities, these systems do not always protect the rights of the poorest and most vulnerable. Moreover, there is often no authority that exercises oversight powers over these bodies. There is therefore a need to identify possible ways whereby law and justice sector reforms can serve the interests of the poor and vulnerable more directly. Grievance and dispute resolution mechanisms that are developed and operate with strong community participation may be useful in preventing and mediating disputes at the community level.

6. Even though little attention has been given to decentralizing accessibility to and delivery of justice in poor urban settings, an ADB RETA on Good Practice in Pro-Poor Service Delivery by Local Governments¹⁰ has provided a case study of how a community grievance mechanism has effectively facilitated pro-poor urban development. The example of Naga City in the Philippines is an interesting case study of a grievance mechanism that deals with tenure issues in an urban setting. Addressing informal settlers' lack of land tenure security by focusing on land acquisition and urban upgrading, the city's Partners in Development Program is designed primarily to empower informal urban settlers. The institutionalization of a tripartite mechanism for permanently settling land tenure problems between landowners and land occupants is hailed as the program's single most important achievement. This tripartite mechanism brings together government agencies, urban poor associations and their allied nongovernment organizations, and private landowners to permanently solve outstanding tenure problems. Today, all land problems involving the urban poor in Naga use this mechanism. By recognizing organized groups of urban poor as partners in resolving disputes relating to land acquisition and urban development, the program has helped give the urban poor legitimacy and has created better economic and social opportunities for them. The program has also been reported as having ended arbitrary ejection of the urban poor from privately owned land and minimizing court-sanctioned evictions.¹¹

7. While the information on the Naga City example is interesting, it is ad hoc. Thus there is a need to collect information more systematically on initiatives pertaining to access to justice by the urban poor and the role of grievance and dispute prevention and settlement mechanisms in

⁷ Footnote 5 (para. 23, page 7).

⁸ Footnote 5 (para. 28, page 9).

⁹ Footnote 8.

¹⁰ ADB. 2002. *Technical Assistance on Good Practice in Pro-Poor Service Delivery by Local Governments*. Manila.

¹¹ Naga City Government. 2004. *Empowering the Poor: Key to Effective Pro-Poor Services*. Paper presented at the Regional Seminar and Learning Event on Local Governance and Pro-Poor Service Delivery, ADB, Manila, 10–12 February.

addressing poverty in an urban setting. Properly analyzed, such studies will provide a basis for understanding what works and what does not work in this area, as well as enabling the identification of replicable and context-specific features. This will lead to better understanding of the prerequisites for integrating a grievance and dispute resolution mechanism into the design of ADB projects that aim to address poverty reduction in an urban setting. The search for a pro-poor approach to law and justice sector reform is consistent with ADB's poverty reduction strategy, which defines poverty as being not just the lack of material resources, but also the lack of power and choice.

III. THE TECHNICAL ASSISTANCE

A. Impact and Outcome

8. The intended medium-term impact of the RETA is that ADB operations addressing poverty reduction in an urban setting would increasingly include a component or activities related to the establishment and operation of a grievance and dispute prevention and settlement mechanism.

9. The expected outcome of the RETA is a sharing of knowledge and an increased understanding by ADB staff and DMCs of good practices for the delivery of justice to the urban poor where existing formal judicial processes are ineffective.

B. Methodology and Key Activities

10. The expected outputs of the RETA are (i) a compilation of examples of existing, effective grievance and dispute resolution mechanisms in the region involving urban poor communities that increase their members' resolution of disputes and access to justice and basic rights and/or protect their members against violence, and this will include an analysis of the replicable and context-specific features of such practices; (ii) the training of relevant ADB staff on grievance and dispute prevention and resolution mechanisms for the urban poor; and (iii) the dissemination of the results, including through a regional seminar and a publication both in hard copy and on the Internet.

11. The RETA will start with a widely published invitation to DMC governments and civil society to submit descriptions of existing initiatives pertaining to urban grievance and dispute resolution mechanisms that actively involve poor urban communities in preventing or settling grievances and disputes. The substantive focus of the initiatives will be in the areas of (i) land and housing; (ii) access to basic goods and services, including utilities such as water and power; or (iii) violence against women and vulnerable groups. Submissions will be invited through international development web sites, ADB's web site, and advertisements in local newspapers. Simultaneously, the RETA will identify existing good practices in ongoing ADB-funded projects. From these, the best replicable examples will be selected and their initiators or implementers will be invited to participate in one of four subregional workshops to discuss best practices and identify both replicable and context-specific features. Each subregional workshop will identify one or two case studies that will be examined in more depth.

12. The subregional workshops and the knowledge product that will be developed based on the information shared during such workshops and on a desk review of available information will be centered on questions such as the following: What are the advantages of creating a community dispute resolution mechanism in urban settings? What issues become subject to such a dispute resolution mechanism? What key principles underlie the formation of such

dispute resolution mechanisms? What are the legal issues that need to be sorted out in the formation of such dispute resolution mechanisms, for instance, what laws need to be reviewed and how binding is a resolution. How can such a resolution mechanism be created? What are the risks of creating the system and how can these be mitigated? Participants in the subregional workshops will be invited to provide comments as the knowledge product is developed.

13. A final regional seminar will be held to present the findings of the RETA, which will be disseminated further through the ADB web site and through an ADB publication.

C. Cost and Financing

14. The total cost of the RETA is estimated at \$500,000. The RETA will be financed on a grant basis by ADB's TA funding program. Details of the cost estimate are in Appendix 2.

D. Implementation Arrangements

15. ADB, through the Office of the General Counsel in consultation with the Regional and Sustainable Development Department (RSDD) and the regional departments, will be the Executing Agency for the RETA and will be responsible for overall management and monitoring of RETA activities. RSDD and the regional departments will be invited to be part of the team that will undertake the initial screening of initiatives submitted for further study (para. 11). The resident missions will be asked to invite the submission of examples of good practices. The good practices to be included in the in-depth studies under phase 2 of the RETA will be determined based on the submissions received and on the information gathered during subregional meetings. The RETA is expected to focus on four to six countries. A no-objection will be obtained from relevant DMCs prior to starting in-depth case studies.

16. Up to 9 person-months of international consulting services will be required. The international consultant will be recruited in accordance with the *Guidelines on the Use of Consultants* (2006, as amended from time to time). The international consultant will have a strong background in legal empowerment for the poor, dispute prevention and settlement, grievance procedures and mechanisms, and research. The international consultant will have an extensive network throughout the Asian region upon which he or she can draw to collect information. In addition, an individual national consultant may be recruited for up to 3 months in accordance with the *Guidelines on the Use of Consultants* (2006, as amended from time to time). The latter will be based in Manila and will assist with organizing and implementing the regional seminar. The outline terms of reference are in Appendix 3. The implementation details for the phase 2 of the RETA will depend on the outcome of the first phase.

17. The RETA will be implemented over 20 months starting in February 2007 and ending in September 2008. The consultant will organize (i) four subregional workshops to solicit views from stakeholders, discuss features of good practices, and identify principles underlying such good practices; (ii) one regional seminar to discuss the draft final report; and (iii) two training and dissemination activities for ADB staff.

18. The reporting requirements for the consultant are as follows: (i) an inception report within 4 weeks of commencement of the RETA; (ii) reports on the four subregional workshops; (iii) a report on phase 2 of the study; (iv) a draft final report at least 2 months before the regional workshop; and (v) a final report, including the knowledge product, within 2 months of the regional seminar. The initial outline of the final report is in Appendix 4.

IV. THE PRESIDENT'S DECISION

19. The President, acting under the authority delegated by the Board, has approved the provision of technical assistance not exceeding the equivalent of \$500,000 on a grant basis for Access to Justice for the Urban Poor and hereby reports this action to the Board.

DESIGN AND MONITORING FRAMEWORK

Design Summary	Performance Targets/Indicators	Data Sources/Reporting Mechanisms	Assumptions and Risks
<p>Impact ADB operations addressing poverty reduction in an urban setting increasingly include a component or activities related to the establishment and operation of a grievance and dispute prevention and settlement mechanism.</p>	<p>Number of ADB-funded projects, TAs, or JFPR-funded projects that include a component or activities related to the establishment of a grievance and dispute resolution mechanism in an urban setting.</p>	<p>Reports and Recommendations to the President, TA reports, JFPR-funded projects</p>	<p>Assumption DMCs and ADB staff are willing to include a grievance and dispute prevention and resolution mechanism in the design of projects that deal with poverty reduction in an urban setting.</p>
<p>Outcome A sharing of knowledge and an increased understanding among ADB staff and DMCs of good practices for the delivery of justice to the urban poor.</p>	<p>At least two TAs or JFPR-funded projects involving either undertaking further study or applying the acquired knowledge will be approved in 2009.</p>	<p>ADB-wide knowledge products and services work program and TA program</p>	<p>Assumption Information is provided to people who have the interest, capacity, and influence or stature to use or disseminate the best practices developed to urban development practitioners.</p>
<p>Outputs 1. A compilation of good practices, including an analysis of replicable and context-specific features. 2. ADB staff trained. 3. Information widely disseminated both within ADB and among DMCs.</p>	<p>At least 10 examples of existing good practices and at least 4 in-depth case studies compiled by the end of the RETA. At least 50 ADB staff have participated in a training or awareness-raising activity. Four subregional workshops and one regional seminar have been conducted by the end of the RETA.</p>	<p>TA progress reports Publication in the Office of the General Counsel Series on Law and Policy Reform</p>	<p>Assumptions</p> <ul style="list-style-type: none"> • The public and DMCs respond to the invitation to submit descriptions of good practices. • Subregional workshops are able to identify replicable features of good practices.
<p>Activities with Milestones 1.1 Issue invitations to DMCs and the public to submit descriptions of good practices by the end of month 2 of RETA implementation. 1.2. Screen and assess submissions by month 7 of RETA implementation. 1.3. Identify any existing good practices in ADB projects by month 7 of RETA implementation. 1.4. Complete four in-depth studies by month 14 of RETA implementation. 2.1. Prepare training and awareness-raising materials for ADB staff by month 18 of RETA implementation. 2.2. Train ADB staff by the end of the RETA. 3.1. Conduct four subregional workshops by month 10 of RETA implementation. 3.2. Conduct a regional seminar by month 18 of RETA implementation. 3.3. Finalize publication by the end of the RETA.</p>			<p>Inputs</p> <ul style="list-style-type: none"> • TA resources (\$500,000) • Consultants (9 person-months international consultant and 15 person-months national consultant) • Four subregional workshops and one regional seminar

ADB: Asian Development Bank
RETA: regional technical assistance

DMC: developing member country
TA: technical assistance

JFPR: Japan Fund for Poverty Reduction

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COST ESTIMATES AND FINANCING PLAN
(\$)

Item	Total Cost
Asian Development Bank (ADB) Financing^a	
1. Consultants	
a. Remuneration and Per Diem	
i. International Consultants (18,000 x 9)	162,000
ii. National Consultants (3,500 x 3)	10,500
b. International and Local Travel	30,000
2. Initial Invitations to Submit Best Practices	40,000
3. Workshops and Training	
a. Subregional workshops (4 x 25,000)	100,000
b. Regional Seminar	60,000
4. Phase 2 of the Study	50,000
4. Publication	20,000
5. Contingencies	27,500
Total	500,000

^a Financed by ADB's technical assistance funding program.
Source: ADB estimates.

OUTLINE TERMS OF REFERENCE FOR CONSULTANTS

A. International Consultant

1. The Asian Development Bank (ADB) will recruit a firm or institution to provide 9 person-months of international consulting.
2. The international consultant will have a strong background and experience in law, legal empowerment for the poor, grievance and dispute prevention and settlement procedures and mechanisms, a rights-based approach to development, and poverty reduction in the Asian region. The international consultant should have good knowledge and understanding of urbanization and urban development in the Asian region and the challenges this poses. The consultant should also have an extensive network in the region, with working experience in a significant number of countries and a thorough understanding of realities on the ground. The international consultant should have demonstrated strong abilities in research and in organizing and facilitating subregional and regional workshops and should have strong analytical and writing skills. Familiarity with ADB projects and technical assistance will be an advantage.
3. The responsibilities of the international consultant will include the following tasks:
 - (i) producing the inception report, which will include a literature survey and, as necessary, suggestions and recommendations for (a) an improved design for the regional technical assistance (RETA) and for implementation, (b) the methodology to be used, and (c) the research framework;
 - (ii) screening the submissions of existing mechanisms by developing member country governments and civil society together with ADB staff;
 - (iii) identifying good practices in existing ADB projects together with ADB staff;
 - (iv) organizing and facilitating four subregional workshops;
 - (v) supervising and coordinating the implementation of phase 2 of the study together with ADB staff;
 - (vi) preparing an overview report on a grievance and dispute prevention and settlement mechanisms in urban poor areas that actively involves the poor community based on the literature survey, the submissions from the public, the discussions in the workshops, and the in-depth case studies and providing a first draft of this at least 2 months prior to the regional workshop and the final version 1 month after the regional workshop;
 - (vii) organizing and facilitating the regional seminar to discuss the findings of the RETA and to obtain feedback;
 - (viii) organizing two or three training sessions for ADB staff on the outcomes and findings of the RETA; and
 - (ix) providing inputs for an ADB publication on access to justice by the urban poor.

B. Individual National Consultant

6. An individual national consultant based in Manila may be recruited for up to 3 months to assist with the organization and conduct of the regional workshop, including, but not limited to, media relations seminar proceedings, and reporting.

OUTLINE OF THE FINAL REPORT

- A. Executive Summary
- B. Introduction
- C. Key issues related to grievance and dispute prevention and resolution in urban development in relation to urban assets and safety
- D. Features of successful grievance and dispute prevention and resolution mechanisms involving poor urban communities
- E. Description of in-depth case-studies
- F. Proceedings of discussions in the regional workshop
- G. Recommendations for the Asian Development Bank
- H. Conclusions