

## Law and Poverty Reduction

journal or publication title	Proceedings of the Roundtable Meeting Law, Development and Socio-Economic Changes in Asia
volume	1
page range	172-175
year	2001
URL	<a href="http://hdl.handle.net/2344/00015251">http://hdl.handle.net/2344/00015251</a>

Distinguished guests, ladies and gentlemen - good morning.

When Ms. Yamada of the Institute of Developing Economies (IDE-JETRO) requested our office to provide some input at this roundtable conference on law, development and socio-economic change, we were pleasantly surprised particularly given the focus on the nexus between law and socio-economic change. This was so because the Asian Development Bank here in Manila is, at the moment, in the process of reviewing, among other law and policy reform projects, a regional technical assistance proposal for strengthening pro-poor legal and regulatory frameworks in selected developing member countries (or DMCS) of the ADB.

The broad aim of this regional technical assistance is to review the current state of implementation of legal and regulatory frameworks in selected DMCS as those frameworks impact on the poor, disadvantaged and women. Basically, this means identifying the key systemic and substantive legal barriers and constraints faced by the poor in the selected countries and determining whether such barriers and constraints are the result of lack of, or inadequate, or discriminatory laws; or, possibly, inadequate or marginal administrative or regulatory capacity in the country concerned.

More particularly, the proposed regional technical assistance, if approved, will look at how legal barriers and constraints on the poor in access to labor markets, credit markets, land and housing markets, social safety nets, new technology and similar factors undermine poverty alleviation. At the same time, it will focus on the quality of implementation of existing laws in the DMCS covered to see whether there is inadequate or discriminatory enforcement to the extent poor people are concerned. Third, it will also examine the lack of integration of core human rights relating to poverty reduction into national legal systems and how this impacts on the ability of the poor to participate fully in obtaining social benefits. Finally, it will review the role of NGOs and community based organizations or CBOs in the countries concerned as mechanisms for facilitating empowerment of the poor, disadvantaged and women and

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explore other possible mechanisms to make the poor more aware of their legal rights and increase their empowerment and participation in use of legal and related channels.

At this point you might correctly wonder about the connection between empowerment and poverty. The obvious conclusion would suggest that those two variables are inversely correlated -- that is, the higher the incidence of poverty within a given population, the less that community is empowered through its individual members to exercise any legal rights. This is so because, in the absence of an enabling legal or regulatory framework, an impoverished community is typically precluded not only from access to material resources but also from any meaningful participation in decision-making that affects the quality of the lives of members of that community. Having said that, the converse seems axiomatic, namely: increased empowerment of a given group or members within such group should necessarily improve the ability of that community to get out of poverty.

The ADB's poverty reduction framework, set out in the ADB's poverty reduction strategy paper approved by our board in October of last year views poverty in terms of lack of empowerment as follows:

*"...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 decisions that shape their lives..."*

The ADB's poverty reduction strategy aims to provide socially inclusive development which results from pro-poor economic growth, social development and good governance.

The deprivations that characterize poverty are multi-dimensional. Of course, there is the material aspect which is traditionally measured in terms of income levels and access to the basics of human survival --- food, clothing, shelter. That has been the typical focus of the past generation of economists. But human well-being depends not only on the ability to afford particular services or products but from knowledge of the value of such services and, importantly, from the social inclusion or ability to participate that enables all community members to access basic services, infrastructure and goods.

Consequently, from a legal perspective, the critical element in any effort for

poverty alleviation is the existence of laws and a regulatory framework that allows access to proper knowledge of legal rights and that facilitates the ability of the poor to exercise those rights. This is what one might loosely term the essence of a 'pro-poor' legal and regulatory framework. Law reform efforts in the past have typically focused on areas such as capacity building in drafting of legislation or in judicial training or in improving court administration - essentially providing what MS. Yamada in her paper delivered earlier today calls transfer of "legal technology". But there has been little focus on the poor in DMCS and their ability to exercise legal rights.

I am happy to report that the ADB, in 1998, initiated a regional technical assistance on *legal literacy for supporting governance*. That technical assistance pioneered work on the ways in which knowledge of legal rights by women and disadvantaged groups could be enhanced and made some preliminary assessments on the ways in which legal literacy could be effectively used as a tool for empowerment of women and the disadvantaged. The proposed technical assistance on strengthening pro-poor legal and regulatory frameworks, which I described at the outset, follows on the work done under this technical assistance but obviously with specific focus on the legal literacy of the poor. Importantly, it will also cover new ground in looking at ways to develop or to deepen existing mechanisms for increasing the ability of the poor to participate in realization of their legal rights.

In the context of what I would term "the legal right to participate" dimension of empowering the poor, I am also happy to note that Japanese institutions were some of the lead sponsors in a regional conference held in 1998 in Bangkok on providing legal services for underrepresented groups in East and Southeast Asia. The Japan Foundation Center for Global Partnership and Kobe University, along with a US law school and a university in Thailand, sponsored that conference which looked at ways in which to provide legal services to underrepresented groups, typically the poor, and cut down barriers -- legal, administrative, financial or otherwise -- that prevent access by underrepresented groups in Asian countries to justice systems.

Two possible approaches in this connection were explored at the 1998 conference. One was the use of subsidized legal services by means of legal aid clinics funded by the government or by law schools or other organizations. The other was through use of community or public interest law through work of community minded law firms or bar associations. Various issues were also addressed: these included:

- The extent of use of legal aid or self-help measures or some optimal

combination of both;

- What areas or scope should be covered by legal aid (only for criminal actions or for administrative or civil cases as well, for example);
- The proper role of bar associations and law schools in servicing the poor;
- Possible mechanisms for funding such activities through bar association levies or taxes on professional fees; and
- The types of legal incentives that would promote more effective public interest lawyering.

In addition to the work at the Bangkok conference, other groups such as the Ford Foundation have looked at mechanisms aimed at increasing the empowerment of the poor and disadvantaged in legal terms. This has been through reviewing use of alternative law groups (basically legal NGOs or CBOs), using non-lawyers or para-legals in connection with facilitating focus on issues of legal importance to particular communities and promoting law-related legal research to support policy and law reform, promote public awareness and provide an effective factual framework for public interest litigation.

These recent initiatives are an encouraging beginning. I hope this gathering can serve as an additional springboard to development of new ideas and initiatives on the types of capacity building efforts that can take place to make legal and regulatory institutions more sensitive to serving the needs of the poor. More importantly, I hope this roundtable conference can assist in finding ways to use the law to facilitate the increased participation and empowerment of the poor in understanding, protecting and enforcing their rights. Poverty alleviation is essential to what I earlier termed socially inclusive development which is the central aim of the ADB's poverty reduction strategy. Ms. Yamada, in her earlier paper, asked the question: is economic development the only achievement that lawyers seek in their legal technical assistance? Our response at ADB is "no". – economic development without more, falls short. We need to design and implement legal technical assistance that seeks to promote pro-poor economic growth, social development and good governance. One step in that direction is increased focus on the poverty-law nexus and ways in which legal and regulatory frameworks can be developed to promote poverty alleviation.