

Legal and Judicial Systems and Access to Justice from the Gender Perspective

In many countries, laws and judicial systems openly discriminate against women. For instance, women do not have equal rights to inherit and own property. Inequalities in legislation related to marriage, divorce and child custody persist in many countries. Women who have been victims of gender-based violence (GBV) are still not protected by legislation or practice.

In general, women face more difficulties in accessing judicial systems. Some barriers that inhibit women's access to justice include high rates of illiteracy among women in many countries and lack of resources or time to participate in justice processes,

especially given the heavy productive and reproductive burdens. Other barriers include fear of retaliation from the perpetrator and fear of being ostracized and shamed by communities that tend to blame victims of violence for the abuses they have suffered. Tacit acceptance of domestic and gender-based violence in the society and a lack of appropriately qualified female staff within justice institutions to receive and process women's complaints are other obstacles women face in seeking justice.

In this context, it is necessary to remove discriminatory laws and practices, and increase women's access to justice through gender-responsive legislative and judicial reforms.

Mongolia

Project Information

- **Project Name:** The Project for Strengthening Mediation System (Phase 1 & 2) (Technical Cooperation)
- **Cooperation Period:** 2010 - 2015
- **Implementing Organization:** Supreme Court of Mongolia

1. Background and Project Summary

Since the transition to a market economy in the 1990s, revitalization of private sector activities as well as social changes were accompanied by an increase of various disputes among citizens, and accordingly the need for diversification of means of settling civil disputes has increased. In particular, the need to introduce a mediation system has increased because it contributes to the improvement in the proceedings of major lawsuits by resolving disputes about small sums of money or divorces, etc. in a speedy and rational manner.

At the request of the Government of Mongolia, JICA provided assistance to formulate a grand design to introduce a mediation system in civil and family cases in Mongolia in the 1st Phase of the project. In the 2nd Phase, the project aims to extend the mediation system nationwide.

2. Gender-responsive Activities

In Mongolia, divorce mediation accounts for as much as 20% of the mediation cases. Wives generally bear a heavier psychological burden on divorce mediation since domestic violence by their husbands is one of the most common reasons to petition for a divorce. In this respect, this project has integrated a lecture on gender issues, especially on the psychological burden of women on attending mediation, into the training program for the persons concerned. The lecture was adopted as part of the training program after a Japanese expert to the project had proposed it to the Mongolian working group on the mediation system, based on the experience of divorce suits in Japan.



Seminar on Mediation in Mongolia

Project Information

- **Project Name:** The Legal and Judicial Development Project (Phase 1-4) (Technical Cooperation)
- **Cooperation Period:** 1999 - 2017
- **Implementing Organization:** Ministry of Justice

1. Background and Project Summary

Following the termination of all laws of the Pol Pot regime in the 1970s and the expiration of the former Civil Code, Cambodia had no structure for basic laws concerning social activities. There were no laws or regulations to underpin such important systems as inheritances and contracts. JICA started providing legal and judicial development assistance in 1999, which included support for drafting a Civil Code and Code of Civil Procedure and enacting these laws and for drafting associated laws and regulations. In Phase 4 of the project, JICA has supported the enhancement of the comprehensive understanding of the Civil Code and Code of Civil Procedure among core members of the officials at the Ministry of Justice, the legal professionals, and the lecturers at university, in order to implement these laws properly and independently and to disseminate them widely.

2. Land Tenure System in Cambodia from the Gender Perspective

In Cambodia, any land ownership rights existing before 1979 were invalidated in 1989 since all the documents on land tenure had been lost during the civil war and there were no means of identifying ownership over land. Land Law was first promulgated in 1992 and was amended in 2001. Under the 2001 Land Law, systematic land registration began.

The Law on Marriage and Family (1989) distinguishes between joint property (bought or acquired during the course of the marriage) and separate property (owned by one of the spouses prior to the marriage, or inherited by one of the spouses during the marriage). In the systematic land

registration process too, it has been encouraged, in principle, to register joint ownership of land between husband and wife. As of 2010, 182 million parcels are registered. Of these parcels, 63% are registered under the name of husband and wife, 8% under the husband's name, and 19% under the wife's name. This means that women are registered on more than 82% of titles distributed. Women's rights to land are secured by the registration since decisions regarding the disposition of joint property require agreement by both husband and wife, while either spouse may manage his or her separate property independently.

JICA has supported drafting a Civil Code using the above-mentioned principle of joint property, as well as for capacity development of officials concerned with the implementation of the law and procedure. In addition, in collaboration with the Japan Federation of Bar Associations, JICA has implemented the following activity.

Project for Capacity Development of Cambodian Bar Associations

The project supported the establishment of a system of producing legal professionals including establishment and management of law schools, and provides continuous education to lawyers. Under the project, a handbook was prepared and a seminar was conducted on gender equality in order to raise awareness on gender issues among legal professionals as well as the Cambodian society, and enhance the quality of professional skills of lawyers on the issues.



Moot court