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ENGENDERING JUSTICE: A GENDER ASSESSMENT'S IMPACT ON PROJECT DESIGN

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Services are more efficient and equitable when targeted to the different needs of men and women. A gender assessment, focused on a specific issue or sector, is a cost effective tool for improving project performance and meeting poor people's needs.

Background

Gender equality is an important indicator of a country's progress toward sustainable development and is one of the Millennium Development Goals. Yet World Bank teams often find gender equality a difficult concept to include in projects. One solution is to conduct a targeted gender assessment, which can help ensure that a project design addresses gender concerns and promotes equitable access to public services. Such an assessment was conducted in 2001–02 as part of the preparation of Peru's Justice Services Improvement Project.

Access to justice in Peru

In 2000–01 Peru's government was in transition, and the country's "justice sector" was weak. (A justice sector generally extends far beyond the

courts, and includes services provided by community-based peace judges, alternative dispute resolution agencies, ministries of justice, police, prosecutors, forensic doctors, social workers, probation officers, legal aid attorneys, public defenders, law schools, bar associations, legislative committees, and others.) Poor access to justice has long been recognized as a problem in Peru, reflecting factors such as inefficient institutions, costly services, and a disconnect between service supply and demand. Justice services are

limited—with just 1 judge for every 15,000 Peruvians—and unevenly distributed, affecting rural populations disproportionately. Most courts are in urban centers, and few district court judges are in rural areas. Moreover, the costs of justice services (including court and legal fees, transportation expenses, and occasional bribes) are often unaffordable. Although pro-poor services such as legal aid are available in some cities, they rarely reach rural poor people. The number of public defenders is also grossly insufficient, with 249 defenders serving a population of 26.1 million—more than three-quarters of whom are poor or



A gender assessment can help ensure that a project design addresses gender concerns and promotes equitable access to public services.

extremely poor. Making matters worse, most citizens have little respect for courts and related institutions, thanks to protracted, nontransparent procedures that result in unpredictable outcomes. Similarly, judicial decisions often ignore the difficulties facing litigants, such as women's economic dependence and litigants' low education levels and difficulty understanding complex legal procedures, and fail to reflect cultural differences, again dissuading users.

BOX 1. GENDER, SERVICE DELIVERY, AND JUSTICE

The World Bank's *World Development Report 1997: The State in a Changing World* recognizes that the justice system plays an increasingly important role in development and notes that "mechanisms for enforcing the rule of law, such as an independent judiciary, are critical foundations for sustainable development" (p. 28). Although donor agencies and development banks have increased their support for legal and judicial reform, those efforts did not begin with the recognition that the supply of justice services often fails to respond to user demands, including those for greater access. For example, the World Bank began such efforts in the 1980s through limited legal technical assistance, which was largely designed to facilitate the drafting of market-oriented legislation. By the late 1980s the broader concept of, and shift in focus to, "good governance" required a more in-depth look at accountability and transparency mechanisms and the ways that public services—including those of the justice sector—were delivered.

The link between gender equity and service delivery by legal institutions was made more directly in the Bank's *World Development Report 2000/2001: Attacking Poverty*. Drawing on examples of legal discrimination and analysis of disparate treatment by state institutions of male and female users, the report concluded that "legal systems play a key part, either reinforcing customary gender rights and roles—or deliberately seeking to alter them. Also important is the provision of public goods and services, which often bypass women unless specific efforts are made to reach them" (World Bank 2001b, p. 118). The report also suggests that state institutions need to be more open and accountable, supported by legal systems that foster economic growth and equity. Similarly, the report *Engendering Development*, which outlines the Bank's gender strategy, highlights the role of judicial institutions in achieving gender equality. The report says that "efforts to strengthen the enforcement capabilities of countries' judicial and administrative agencies are critical to achieving gender equality in basic rights" (World Bank 2001a, p. 17).

While preparing the Justice Services Improvement Project, it became clear to the Bank team that many of these weaknesses hurt women much more than men. Because Peruvian women are far less educated than men, they are less informed about the law and their legal rights. Their economic dependence on their male partners also discourages them from resorting to the courts, even in cases of domestic violence. Given women's family responsibilities, the family court system—with its rules on child custody, marriage dissolution, and alimony—is especially important for them. Yet that system is especially dysfunctional, with long trials and uninformed judicial decisions. Given these preliminary findings, the Bank team decided to conduct a gender assessment as part of the project's preparation, with a focus on identifying access issues and obstacles.

The assessment's methodology

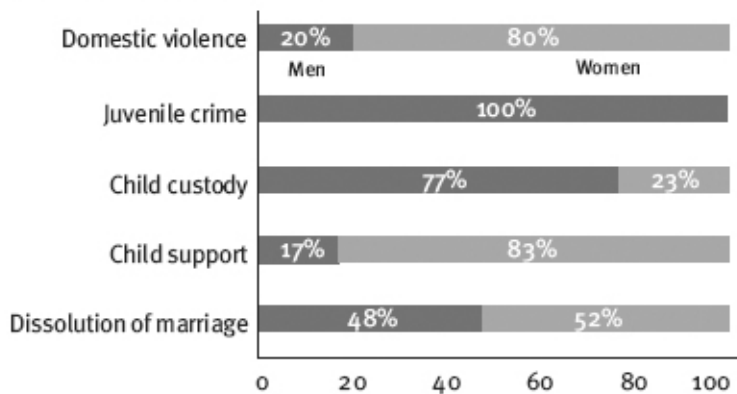
A gender assessment in the law and justice sector includes a review of relevant literature, examines the national legal framework (including laws and legislation), analyzes statistics on the use of judicial services by men and women, and can include interviews of court users (box 1). The first step in understanding obstacles to justice in Peru was based on the work of both governmental and nongovernmental organizations (NGOs). This work was a surprisingly rich source of information, with sophisticated analysis of access to justice issues.

Another important resource for the gender assessment was "Uses and Users of the Justice System in Peru" (González Mantilla and others 2002), a Bank-supported analysis of 1,250 cases filed in the judicial district of Lima—which handles more than half of the country's caseload for civil, labor, and family matters. The study provided a solid basis for statistical analysis of the patterns of users of these courts. Here the definition of the justice sector and its institutions was crucial to determining the scope of the gender assessment. Although the judiciary played a paramount role in providing statistics and other research, the study was not limited to a review of one agency's gender responsiveness.

The assessment's findings

The assessment revealed that women and men have different justice needs and tend to use justice services based on their societal roles. Men were more likely to use such services, whether in specialized courts (accounting for 56 percent of those who filed or initiated cases) or courts run by peace justices (58 percent). Men also tended to be the active litigants in commercial, contractual, and credit-related cases. When it came to family court litigation, women were generally the plaintiffs in cases involving child support, domestic violence, and dissolution of marriage, while men were usually the defendants in juvenile crime and child custody cases (figure 1).

FIGURE 1 WOMEN USERS TEND TO FILE DOMESTIC VIOLENCE AND CHILD SUPPORT CASES...



Note: Data are for 1998.

Source: González Mantilla and others 2002.

The gender assessment also found that, given the differentiated use of justice services by men and women, the institutional weaknesses of family courts exacerbated gender inequalities in the sector. Women were particularly affected by family courts' slow responses to child support and domestic violence cases. In 2002, when the assessment was conducted, nearly three-quarters of child support cases filed by women in 1998 had yet to be resolved by family courts (figure 2). In cases where a judgment was reached, beneficiaries' ability to convert it into periodic payments was severely limited by enforcement problems—most custodial parents had to pursue additional procedures to collect child support. Similarly, two-thirds of domestic violence cases filed in 1998 had not reached judgment. Given that 83 percent of child

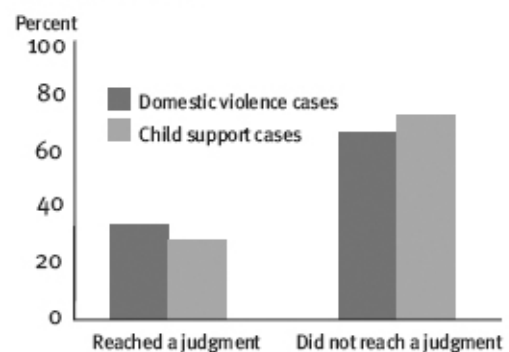
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Poorly functioning judicial systems can exacerbate gender inequalities and increase poverty among women

support cases and 80 percent of domestic violence cases were filed by women, the burden of the family courts' shortcomings fell largely on women. In seeking legal redress in these cases, women confronted a number of obstacles—including mistreatment by the authorities, ignorance of applicable laws, lack of access to legal counsel, and biased behavior by police officers, prosecutors, and judges who refused to consider domestic violence a serious crime.

The types of cases that increasingly concerned the Bank's project team were those involving child support, because they affected the basic needs of poor families. Child support cases mainly refer to the transfer of resources for child care, including goods and services such as housing, clothing, education, food, and health care. One of the main obstacles to resolving such cases was the requirement that users produce proof of income or assets. According to case files, most parents worked in the informal sector, yet judges tended to be excessively formal, often only accepting payroll certificates as evidence of income.

FIGURE 2 ..YET SUCH CASES OFTEN DO NOT REACH JUDGMENT



Note: Data are for 2002, based on cases filed in 1998.

Source: Gender assessment of Peru's Justice Services Improvement Project.

Through discussions with lawyers, judges, and plaintiffs, the project team began to recognize the social impact of judicial decisionmaking as an important area for access to justice. For example, judges were often lenient with divorced fathers, assuming that their

Targeting the different needs of men and women can make services more efficient—and more equitable

former wives would remarry and their children would be supported by other men. The gender assessment found that women face significant obstacles to accessing justice services—and that when they do access these services, inaccurate legal reasoning and institutional weaknesses severely limit their ability to obtain justice.

Implications for project design

These findings resulted in changes to the project's design, including the addition of a component that specifically addresses access to justice. This component proposes mechanisms to make Peru's justice system more accessible and equitable, with a focus on gender disparities in service delivery at both formal and informal levels. The project includes financing to train lay justices of the peace and community leaders on subjects such as mediation techniques and handling of family conflicts, including discussions of gender-related issues. It also seeks to strengthen the operational capabilities of the family court system to deal more effectively with domestic violence, dissolution of marriage, and child support cases through technical assistance for the design and implementation of an inventory and referral system, in connection with existing social services in Peru. Finally, during implementation the project team will involve gender specialists in various activities, with a focus on the access issue.

Conclusion

Efforts to strengthen the enforcement capabilities of countries' justice agencies are critical to achieving gender equality in the application of basic rights, such as due process. As the Peru Justice Services Improvement Project's use of a gender assessment in project preparation shows, access to public services—including justice—is not gender neutral. The assessment showed where the system was failing women and what reforms were needed. While examining user needs makes service delivery more efficient, specifically targeting the different needs of men and women can make services not only more efficient, but more equitable as well.

Further reading

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