

OCTOBER 2011



## ABOUT THE AUTHORS

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# SmartLessons

*real experiences, real development*

## Empowering Women in Pakistan

### Commercial Alternative Dispute Resolution Mechanisms

*An overburdened court system adds to the disadvantages of women in Pakistan (see Box 1). Women entrepreneurs who lack the time and resources to battle a dispute in the courts also run the risk of being victimized for highlighting their problems. Mediation provides a valuable alternative, allowing women and others to settle disputes out of court. As a dispute-settlement mechanism, alternative dispute resolution (ADR) is gaining prominence and increased application in most parts of the world. Its benefits are several. However, for countries where the justice system lacks efficiency, embracing ADR is also difficult. In 2006, IFC launched an ADR project with a goal of institutionalizing mediation for the first time in Pakistan. Although the project had no provision for separate gender activities, opportunities were created for reaching out to women entrepreneurs and others. This SmartLesson relates our experiences and the lessons we learned, demonstrating in particular how gender became an integral part of the project — and the impact it gained over time.*

#### Background

IFC Advisory Services in Middle East and North Africa (AS MENA) has been instrumental in leading commercial alternative dispute resolution in MENA countries. Its ADR Project in Pakistan, which was piloted for the MENA region, concentrated on laying foundations for commercial mediation in the city of Karachi, with the following aims:

- Establishing an independent mediation center;
- Proposing law reforms in the field of mediation;
- Training mediators, master trainers, judges, and lawyers in ADR and mediation;
- Creating awareness in the field of ADR; and
- Reviewing ADR curricula for law schools in Karachi.

The overall objective of the pilot project was to improve dispute settlement for the private sector, because contract enforcement in Pakistan not only is time consuming but also is

#### Box 1: The Court Environment in Pakistan— How It Affects Women

Pakistan's formal justice system is overwhelmed by disputes filed in courts. Delays in processing cases—with too many adjournment applications—defeat any efforts to mitigate lengthy court procedures. With a strongly litigious culture and with parties eager to have “their day in court,” dispute settlement through the formal justice system is not for the fainthearted!

For women in particular, courts are not a welcoming place. Women going through the court process not only incur expenses for visiting courts, but they are also looked down upon by male members of society. Hardly any decent seating is available for women in courts at the district level. And Pakistani courts are open to the public at large, which means that confidentiality is nonexistent—various facets of the disputes become known to the “world,” sometimes affecting the status or honor of women litigants.

discouraging investments and blocking assets of businesses in disputes pending adjudication in courts — for as long as 5–10 years!

The project was successful in achieving its objectives in an extremely volatile and fragile political environment, where judges of superior courts had to take an oath considered to be unconstitutional in a situation where an emergency was declared, or new judges were appointed, which was said to be unconstitutional. The mediation center launched its activities a couple of weeks prior to the judicial crisis in Pakistan and has survived opposition from skeptics since then.

Since the project's launch — and especially at the time when its client, the mediation center, Karachi Center for Dispute Resolution (KCDR), started providing mediation services — the project lost its initial champions in the local High Court to the judicial crises and could not move forward as planned for about two years. It was almost impossible for the team to achieve project goals, activities, and impact, let alone focus on integrating a gender component. However, as the situation normalized, the project team had the idea of focusing on women entrepreneurs and litigants as a way to expand mediation services and increase the development impact.

## **Lessons Learned**

### ***1) Integrate a gender component at the project design stage.***

Gender considerations must be included within all IFC Advisory Services projects as natural integration, rather than waiting for an opportunity — or the right time — to think about this vulnerable segment of society. We had to learn this lesson. At the initial concept stage, there was no intention to include gender as a separate component in the project design — or to make any special effort to reach out to women entrepreneurs. However, as the project progressed, the team did reach out to women entrepreneurs, not only to expand the desired impact but also to make it easier for women to resolve their disputes.

Even though the project had no separate budget to reach out to women entrepreneurs, the team encouraged participation of women in training and awareness events. The project hosted a series of training sessions on ADR and mediation and gave specific attention to attracting female applicants. Out of 49 accredited mediators on KCDR's panel of mediators, the project team was proud to have 11 women mediators. Furthermore, 5 of the 13 master trainers are women. This is indeed an accomplishment and showcases the development impact by integrating the gender component into the Pakistan ADR project. To date, 574 women have participated in awareness-raising workshops and seminars on ADR and mediation since the project's inception.

This encouragement of female participation was also seen in working on awareness raising and case referrals with women chambers of commerce and industry in Karachi and with the First Women Bank Ltd. Although the ADR project



Reception area of Karachi Center for Dispute Resolution.  
Photo courtesy of KCDR

team successfully introduced a gender component at a later stage, it was generally felt that the next phase of the ADR project would need to be designed with a gender component at the outset, and that the Sustainable Business Advisory team in MENA and the gender team at HQ would be involved in project design. Thanks to the experience of the pilot ADR Project, a gender dimension has been built into the design of Phase II of the Pakistan Projects as well as four other ADR Projects at IFC Middle East and North Africa.

### ***2) Design the mediation center to address the needs of women.***

The mediation center was established by AS MENA in an accessible residential area not far from the District Court and the High Court. With a conference room and three breakaway rooms for parties to confer, the Karachi Center for Dispute Resolution provides an environment where disputants can take their cases to be resolved without fear of an adversarial process of the sort that is prevalent in the courts.

For women, the unique selling point of KCDR is the confidentiality and flexibility of a process where the technicalities and formalism of the court system are virtually nonexistent and women can trust a professional mediator to put parties at ease and on an equal footing. Women also can choose to have a female mediator help them resolve their disputes. It is probably a coincidence that the mediation center has been recruiting female staff as corporate secretary and case administrator. Women therefore have been more receptive to the presence of female case administrators and female mediators.

### ***3) Pro bono mediations can help introduce ADR to women litigants.***

In preparing for gender-inclusive activities, the project team introduced pro bono mediations through pilot "mediation weeks" on the premises of the city court in Karachi, where suitable cases — in which one of the litigants is a woman — could be referred to mediation. Women who had been



A female litigant provides details about her case during mediation week at City Courts, Karachi.

Photo courtesy of KCDR

pursuing their cases in courts for years were pleasantly surprised at how quick the process was, with a majority of disputes being settled within hours and not years. The pro bono mediations motivated courts to refer cases for mediation, which also served as a learning tool for lawyers who had not represented clients in mediation before.

As a result of the pilot mediation week's success, the Women Development Department of Sindh province asked KCDR to develop a proposal for mediation and ADR training throughout the province. Generally, governments have limited budgets and are criticized for not allocating funds for initiatives that are aligned with needs of the people. However, to enhance access to justice for women groups, the provincial government allocated \$127,900 for the gender pro bono mediation project, and KCDR has been accepted as the lead — and only — institution that can provide such services in Pakistan.

We anticipate that KCDR, with funds approved and with the help of mediators and master trainers, will initiate this activity to provide mediation and training services to target female audiences across Sindh province, where the concept of mediation will be properly understood and mediation will be resorted to by women who have limited access to justice. This illustrates the need for collaborating with government agencies that work on gender issues. This initiative is extremely promising, and the government considers it to be positive and a potential ongoing program for women. It is evidence that the project has certainly made an impact on how KCDR is perceived by government and other institutions.

The High Court of Sindh in Karachi has noted the benefits of mediation and a mediation center such as KCDR and is eager to consider development of an ADR center for Karachi under the umbrella of the Sindh High Court. This is expected to help women litigants, among other beneficiaries, access mediation services within the premises of the courts without giving the impression of a parallel judicial system.

In retrospect, pro bono mediation weeks were crucial in helping women resolve their disputes, thereby saving time and money. However, pro bono mediations are not sustainable and can be so only if local legal aid mechanisms include mediations as one form of dispute settlement. The project team also benefited from having women mediators who supported the activity by providing litigation mediation services for women. This served as a lesson for future activities for women.

Through pro bono mediation weeks, it also became clear that female litigants often — except in disputes of a corporate nature — are accompanied by male members of the family. This actually is helpful for the women, because sometimes it is necessary, even crucial, that the men be involved in reaching a settlement.

#### **4) Women participants often become gender ADR champions.**

The women whom the project trained as mediators and master trainers also work in different professions, and they promote the use of mediation among the women they work with. Women mediators who participated in pro bono mediation weeks were committed to supporting the awareness-raising events of IFC and KCDR. This proves the point that providing equal opportunities to women can inspire them to act as brand ambassadors and promoters of the mediation concept.



Participants in a gender awareness-raising session in Karachi, organized for women academics, include IFC staff and consultant, the president and director of KCDR, and women academics of Karachi.

#### **5) If gender elements are missing in the original project design, identify them - and incorporate them into the next phase or project.**

At the close of the pilot project, in preparing for Phase II, the ADR team identified a number of activities that could have been implemented if a gender-inclusive mediation intervention had been part of the original design of the ADR project. For example, the following activities have been planned for after the close of the pilot project and as part of Phase II for the cities of Karachi and Lahore:

- Gender sensitization sessions on ADR for women working in corporate, legal, judiciary, academia, banking, and business fields, as well as women from the not-for-profit sector;
- ADR documentary highlighting benefits of ADR and use of mediation services by women;
- Special awareness events for women chambers of commerce and industry; and
- Close working relationship with First Women Bank Ltd.

*“These projects are great examples of how working gender into programs can help teams reach more people and achieve more development impact.”*

Lars Thunell,  
Executive Vice President and CEO of IFC

Note: A helpful knowledge tool for designing the gender component of a project is the recently launched publication *Gender Dimensions of Investment Climate Reform — A Guide for Policy Makers and Practitioners*.

These activities will provide opportunities for the project team to convey its dispute-settlement message and at the same time offer women entrepreneurs guidance and assistance in dealing with disputes.

#### Box 2: Outcome and Impact

The following statistics illustrate the successes of the ADR Project in Pakistan:

- 294 cases involving women litigants have been referred for mediation.
- \$1.69 million has been released for women entrepreneurs.
- 574 women participated in awareness raising, training, and other events.

## Conclusion

Through this project, the team gained experience in the gender mainstreaming of project activities. This experience was also instrumental in the systemic inclusion of gender in all projects, such as Morocco, Egypt, Lebanon, and Afghanistan. We also learned that government can provide funds in support of an innovative approach, and that visibility matters in the layout of a mediation center — it must be safe and inviting for women who shy away from courts or who do not wish to be seen on the premises of courts. We consider this pilot a success on several levels (see Box 2), but to ensure future successes, the project design stage needs to be well planned — with the gender elements built in and relevant departments involved. Meanwhile, the ADR Pilot Project in Pakistan won the 2010 IFC CEO Gender Award.

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