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USAID LAND REFORM AND MARKET DEVELOPMENT PROJECT

Final Report

SEPTEMBER 2008

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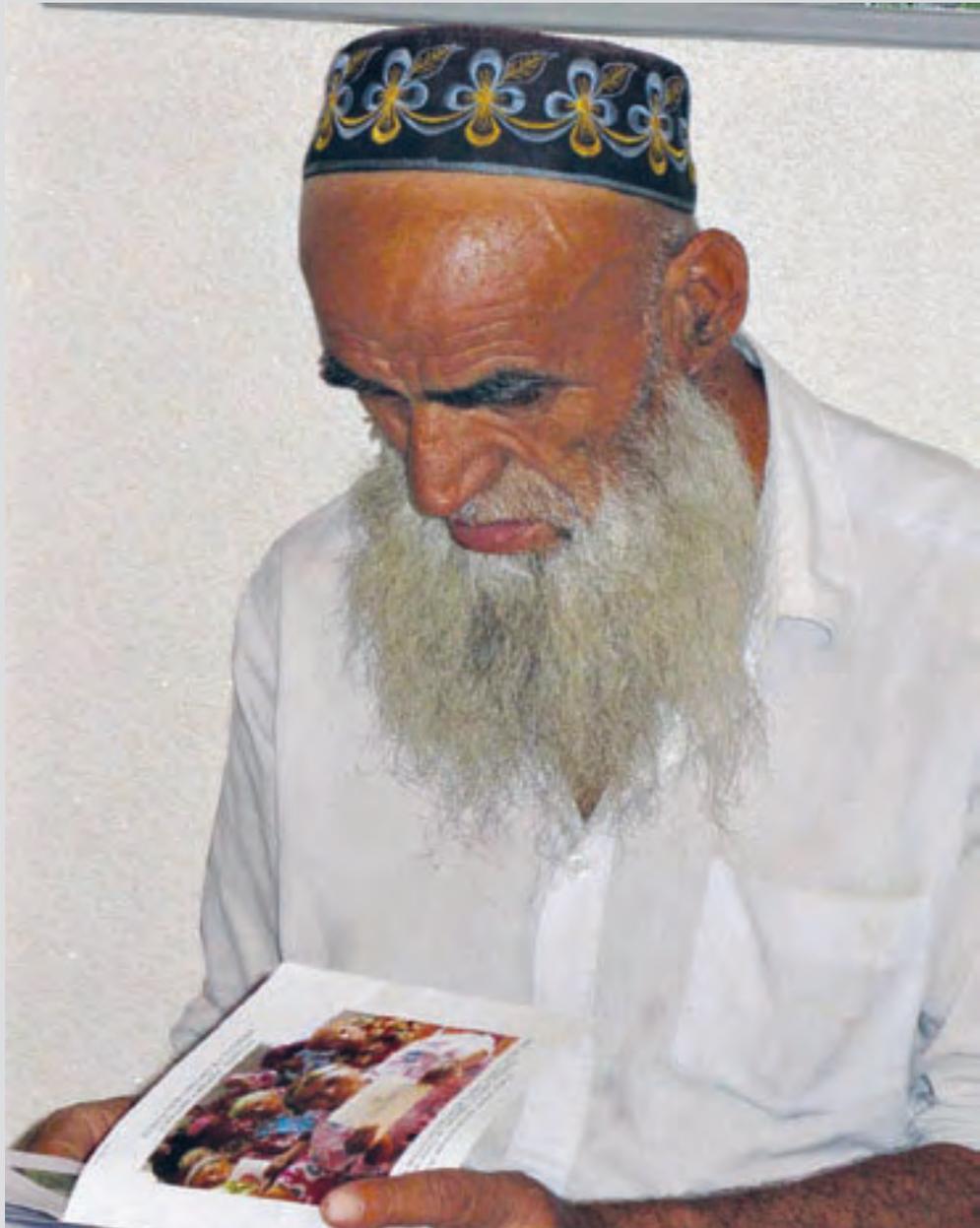
LRMDF / KUSHTARBEKTASHKULOV

The head of Markaz AO, Batken Oblast (Kyrgyzstan), receives a State Act following his AO's strategic planning process.

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USAID Contract No. I 16-C-00-05-00026



LOMIDP

A farmer in Tajikistan learns about his freedom to farm under Resolution III from a project brochure.

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FRONT COVER: A girl shoulders a load of cotton on a farm in Tajikistan.

LRMDP

BACK COVER: A Kyrgyz boy plays alongside his family's horses as they graze in pasture.

LRMDP / CHYNARA ARAPOVA



LRMDP / JARKYN NAMBETOVA

Residents of Naryn City (Kyrgyzstan) discuss zoning. LRMDP helped spread the use of zoning regulations as a tool to increase investment in urban land.

ACRONYMS AND GLOSSARY

GENERAL

ADB	Asian Development Bank
ACTED	Agency for Technical Cooperation and Development
BEI	Business Environment Improvement project (USAID)
DfID	Department for International Development (United Kingdom)
LRMDP	Land Reform and Market Development Project
NGO	Nongovernmental organization
OSCE	Organization for Security and Cooperation in Europe
SDC	Swiss Agency for Development and Cooperation
UNDP	United Nations Development Program
UNFAO	United Nations Food and Agriculture Organization
UNIFEM	United Nations Development Fund for Women
USAID	United States Agency for International Development
WB	World Bank

KYRGYZSTAN

AO	Aiyl okmotu, body of local self-government
BIG	Business Intellect Group
GOK	Government of Kyrgyzstan
KLR	Kyrgyzstan Land Reform project
LRF	Land Redistribution Fund
PMC	Pasture management councils
SALF	Kyrgyz State Agricultural Land Fund
UDA	Urban Development Association
Aiyl kenesh	Local council
Demilgechi	Rural land activist(s)
Gosregister	State Agency on Registration of Rights to Land and Real Estate
Jogorku Kenesh	Parliament of the Kyrgyz Republic
Oblast	Region or province
Rayon	District, body of local government

TAJIKISTAN

ADF	Association of Dehkan Farms
ALMGC	Agency for Land Management, Geodesy, and Cartography
CJSC	Closed joint-stock company
CPC	Center for Protection and Cooperation
DCC	Donor Coordination Council
DF	Dehkan Farm
GOT	Government of Tajikistan
LAC	Legal aid center
NADF	National Association of Dehkan Farms
TVT	Television Tajikistan
URS	Unified registration system
Dehkan farm	"Peasant" farm, or a farm resulting from the reorganization of a state-owned farm
Hukumat	District, body of local government
Jamoat	Body of local self-government
Tashabbuskor	Rural activist(s)



LRMDP

A demilgechi, or rural activist, takes notes at the annual conference of the activists' NGO — Aiyl Demilgesi — in Osh, Kyrgyzstan. LRMDP supported activist networks in Kyrgyzstan and Tajikistan that reached out to farmers directly in their villages.

EXECUTIVE SUMMARY

Since the collapse of the Soviet Union, Kyrgyzstan and Tajikistan have progressively moved to establish market-based economic systems that can boost economic growth and reduce poverty. Because majorities in both countries are engaged in agriculture, their economic growth requires well-functioning land markets, underpinned by secure land rights. Given the current state of international commodity markets, agricultural policy and issues of land use are ever more closely linked to questions of food security. USAID's Land Reform and Market Development Project (LRMDP), implemented in Kyrgyzstan and Tajikistan from October 2005 to October 2008, was developed primarily to address insecure land and other property rights; nonexistent or poorly performing land markets; and unsustainable land-use management. During the life of the project, LRMDP staff worked with 382,605 beneficiaries.

In Kyrgyzstan and Tajikistan, project staff worked at both the national and local levels. They collaborated with central governments to develop/reform legislation and worked at the local level to educate farmers and local residents about their rights and to assist them in resolving disputes. In their activities with local governments, project staff brought together this policy and educational work and encouraged local problem solving. However, the character of project efforts in Kyrgyzstan and Tajikistan was shaped by the different nature of land ownership in each country. Kyrgyzstan introduced private land ownership in 1998, whereas in Tajikistan the state retains ownership of all land, and citizens only hold land-use rights. Because land reform has progressed further in Kyrgyzstan, the project focused on land market development and land administration issues there. In Tajikistan, the project focused on land reform to improve the security of land-use

TOP 10 CAR LAND RESULTS

KYRGYZSTAN

- 1. Legal Reform:** Amendments to Land Code adopted related to zoning standards and Model Regulation enacted for open and transparent LRF land management
- 2. Improvements in Land Administration:** 33 percent of state-owned land surveyed and inventoried
- 3. Local Government Strengthening:** Local governments' revenue increased by 327 percent (reaching a total of \$216,670) through project-facilitated land auctions
- 4. Building Local Capacity:** Project-supported organization and registration of demilgechi network as the public association Aiyi Demilgesi, which covers 122 villages in Kyrgyzstan
- 5. National Government Buy-In:** Successful pilot project leveraged government funding to continue land surveying and inventorying

TAJIKISTAN

- 1. Legal Reform:** Project-recommended changes to Land Code adopted by Parliament, which strengthen land-use rights and introduced the ability to convey those rights
- 2. Capacity Building:** Project-supported legal aid centers (LACs) judged by Swiss Agency for Development and Cooperation (SDC) as "best performing, most professional, and only sustainable LACs in Tajikistan"
- 3. Donor Coordination:** Donor position on freedom-to-farm rights unified, which resulted in stronger government enforcement of those rights
- 4. Rule of Law:** Project-supported LAC successfully sued to annul \$620,000 of debt on 62 farms
- 5. Rights to Land Use:** 770 new dehkan farms created for 23,530 shareholders

rights. Where appropriate, concepts and methods that successfully produced reform in Kyrgyzstan were employed in Tajikistan.

In many cases, the results achieved by the project exceeded its targets. Although primarily an economic growth project, it also promoted local democracy, good governance, anticorruption, and access to justice. For example, in Kyrgyzstan, the project worked with local governments to develop strategic plans for managing state-owned land. These plans were later presented at public hearings, which stimulated citizen involvement in decision-making on local land-use issues. In addition, they were implemented by leasing the state land in transparent auctions, which required local

governments to make their land records accessible to the public. In Tajikistan, the project promoted the rule of law by supporting legal aid centers that provided legal advice to farmers and emphasized pursuing cases through the courts.

DEVELOPING THE LAND MARKET IN KYRGYZSTAN

USAID designed the activities of the Land Reform and Market Development Project to build on the successes of its predecessor program, Kyrgyzstan Land Reform (KLR). Active between 1999 and 2005, KLR immediately followed Kyrgyzstan's 1998 privatization of land and established a strong foundation for land reform by allowing land to be privately owned, developing the real-estate market,

helping make land and buildings tradable, and helping make property into liquid capital assets. KLR also helped build the institutions necessary to support the developing land and real estate market. Through KLR's land-reform activities, USAID propelled Kyrgyzstan far ahead of its Central Asian neighbors on the path to a thriving land and real estate market. However, more remained to be done, specifically improving management of state-owned agricultural land, eliminating legal barriers to agricultural land market development, increasing the use of urban zoning, and increasing public awareness of land rights and reforms.

In 1998, Kyrgyzstan instituted private land ownership through a constitutional amendment, which was approved in a national referendum. Following this amendment, the government broke up state collective farms and transferred ownership of their land to local residents. However, it retained 25 percent of state-owned farm land in the Land Redistribution Fund (LRF) for distribution to those who did not receive land during the first round, socially vulnerable groups, and state-owned agricultural enterprises. Currently, 18 percent of arable farmland remains within the LRF, which is administered by *aiyl okmotus* (AOs or local governments) on behalf of the central government. The state also retains ownership of pastureland, which makes up 85 percent of existing agriculture land.

Following privatization, the government imposed a five-year moratorium on selling agricultural land to allow for public education about

land ownership. While this ban was lifted in 2001 after only three years, Kyrgyzstan does not possess the legal framework necessary to support a robust land market. A number of impediments — particularly, the fact that agricultural land can only be owned by rural residents — have prevented investment and limited agricultural land transactions. Moreover, the legal framework regulating management of LRF land is limited. As a result, there has been little planning for the use of rural land, which has led to unpredictable and nontransparent procedures for using it.

To improve this situation and strengthen the market economy, USAID designed two main LRMDP components in Kyrgyzstan: a rural land component that would facilitate the development of market-oriented, land-related legislation and policy and an urban land component that would promote the development of urban land markets through improved land-use and real estate-appraisal practices. However, during implementation, the rural component grew to encompass policy work on both state-owned LRF land and privately owned agricultural land.

Developing rural land markets.

Under the Rural Land Market Development component, project staff worked to introduce market mechanisms into the management of state-owned agricultural land and to stimulate an effective private land market.

For local farmers, the LRF is an important source of additional land to expand farming activities. For *aiyl okmotus*, leasing LRF land

A member of Samarkandek AO, Batken Oblast, color codes viable LRF land (green) and LRF land needing investment (yellow) on a map. Identifying the quality of land in the Land Redistribution Fund is an important step in the process of developing a strategic plan.



LANDIP / BERNET SATYBALDIEVA

is an important source of revenue for local budgets. Unfortunately, most AOs have poorly managed the LRF land under their supervision, leading to inefficient land use and land degradation. In addition, nontransparent leasing arrangements, often conducted by the heads of AOs in favor of personal contacts, have led to lost revenue.

Project staff successfully helped AOs improve management of LRF lands. They guided adoption of a Model Regulation on Terms and Procedures of LRF Land Lease in 2007, which laid out the steps for AOs to follow in administering their LRF land. This new legislation followed 2006 amendments to the Law on Agricultural Land Management that allowed for LRF land auctions and investment tenders. In addition, project staff helped 130 AOs prepare strategic plans for managing their LRF lands and organized 33 LRF land auctions in 23 AOs, which increased local budgets by \$165,940, a total of 327 percent.

To stimulate the private land market, the project team supported amendments to the Law on Agricultural Land Management to remove many of the market restrictions. In an important achievement, the team overcame many officials' reservations about further liberalization by securing President Bakiyev's support for these amendments as a means of promoting mortgages for agricultural land.

Given the existing weaknesses in the agricultural land market and the legal impediments, the project team saw it as premature to promote land exchanges and market-driven consolidation of land. Therefore, they developed recommendations for further policy reforms on the basis of nationwide survey results on the current state of the land market. At the project's final conference, the team presented these recommendations and the prime minister agreed to incorporate them into a new national strategy on land market development.

To raise awareness about land rights in rural communities, the project used a network of *demilgechi* (rural land activists), who provided both education and consulting services. Over the course of the project, the demilgechi assisted more than 120,000 rural citizens by informing them about issues (like drafting contracts or registering land) and by resolving land disputes. To extend the reach of its public awareness activities, the project also produced weekly television and radio programs on project activities and land-related problems. In 2006, the project TV program was the second most popular show in Kyrgyzstan.

Developing urban land markets.

Under the Urban Land Market Development component, project staff

worked to introduce market-based land-use planning mechanisms (i.e., zoning) and to stimulate the development of professional real estate appraisers.

With project assistance, 11 pilot towns and two rural settlements drafted, updated, and introduced zoning regulations. To ensure that these regulations would be applied in all Kyrgyzstan's cities, the project team successfully worked through the Investment Council to include adherence to zoning regulations as one of the procedures required to obtain a construction permit. In towns where zoning regulations were adopted, investment in land increased 147 percent (on average) in the year following adoption, indicating the project's success in



LRMDP / DMITRY GUDKOV

Surapov Bolot, the director of the Naryn branch of the NGO association Aiy! Demilgesi, was named Best Demilgechi of the Year.

creating a more predictable regulatory environment.

In another important achievement, project support led to the enactment of six national appraisal standards in 2006. To ensure that these standards will be universally applied and that appraisers have access to further professional development, the project drafted amendments to the Law on Appraisal to regulate appraisal activities and to reduce corruption in licensing. The project also prepared a second edition of the textbook, *Real Estate Appraisal*, which was then recommended by the Ministry of Education for university economics students.

STRENGTHENING LAND RIGHTS IN TAJIKISTAN

Tajikistan's path to land reform has been slower than that of many other post-Soviet states, in part due to the legacy of its 1992–1997 civil war. Unlike Kyrgyzstan, Tajikistan has not instituted private ownership of land. Rather, the country's post-war constitution gives the state ownership of all land and its resources, while citizens are granted land-use rights and can take leaseholds.

Land reform in Tajikistan has also been complicated by the dominant role that cotton plays in the country's economy. Because cotton makes up a large portion of the country's exports, it is a closely controlled commodity, and land reform is tied to reform of the cotton sector. In addition, when formerly state-owned farms were restructured to create *dehkan* (peasant) farms, they also inherited the state farms' huge debts, leaving many economically unviable and unattractive to buyers.

The overall goal of LRMDP in Tajikistan was to strengthen the developing market economy by promoting market-oriented land-related legislation/policy and by facilitating sound land reform and farm restructuring. To accomplish these goals, the project took a two-part approach: (1) provide assistance to the Government of Tajikistan (GOT) to further develop land laws, policies, and implementing procedures that strengthen property rights; and (2) help farmers acquire access to land and defend their property rights through the law. The project included components related to agricultural and urban land, although the majority of work focused on agricultural land.

Rural development. To improve the government's ability to draft the necessary land-related legislation and to facilitate a coordinated donor response, the project team was instrumental in creating an official government working group to review policy options and prepare legislative amendments. The working group was established to draft legislation to improve tenure security (and the freedom to farm), develop land and mortgage markets, and create an appropriate land administration system.

The project's major accomplishment was the GOT's adoption of amendments to the Land Code in January 2008, which greatly improved the security of land-use rights by restricting the government's ability to withdraw those rights and by ensuring due process. The amendments also make possible the transfer of land-use rights for the first time, laying the foundation for a land market. Further-

more, the amendments allow for pledging land-use rights as collateral, thereby laying the foundation for a mortgage market.

LRMDP staff also assisted in the development of other key land-related laws, such as the Law on Mortgage and the Law on State Registration of Immovable Property — both of which came into force in March 2008 — as well as the Law on Land Valuation, which remains under government review.

To help farmers realize their land-related rights and obligations, the project supported a network of 11 legal aid centers and 62 *tashabbuskor* (rural activists) to increase farmers' knowledge of land rights through direct education on issues ranging from how to reorganize a farm and obtain land use certificates to how to negotiate more complex legal issues, such as taxation, contract law, and inheritance.

The project also conducted an extensive public education campaign through the media. In a weekly radio and TV program, "Your Rights to Land," the project informed farmers about their rights and publicized their problems and solutions. In addition, the project published a monthly newspaper, *Kimiyoi Khirad* ("source of wisdom"), which featured farmer success stories and land-related news.

In addition to providing training, the legal aid centers actively advocated for and defended the legal rights of rural citizens by providing legal advice, mediating disputes, and representing citizens in court. Lawyers from the centers helped farmers win several groundbreaking

legal suits against powerful investors and local government authorities.

Through the legal aid centers and *tashabbuskor*, the project helped solve 10,830 problems, create 770 *dehkan* farms, and initiate 47 court cases. However, the absence of a solution to the farm debt problem prevented the legal aid centers from helping farmers resolve their debts.

Urban development. The urban development component of the project was limited to identifying the reforms needed to promote a viable urban land market by developing market-based land use and appraisal activity. In its assessment of the legal and institutional framework for zoning in four cities in Tajikistan, the project team found that the constitutional restrictions on private land ownership would not hamper the introduction of a system of urban planning regulations. The team also concluded that the lack of cadastral maps, city land-use maps, and professionally trained specialists means that significant human and financial resources will be needed to develop zoning regulations in the country.

In an assessment of valuation and appraisal activity in Tajikistan, the project concluded that, while Tajikistan retains the Soviet style of valuation, some market-based activities can be initiated, including training and education. Because funding was not available to pursue the zoning and appraisal activities, the project limited its work to the two assessments. As a result, this report only mentions the project's urban land component in these introductory remarks.



LORDP / ERIC FILIPINK

Residents of Bekjar village angrily protest an LRF auction because the *aiyl okmotu* (local government) has too often ignored their needs. The project's encouragement of transparency and good governance in land management has stimulated local democracy and accountability throughout Kyrgyzstan.

IMPROVING THE MANAGEMENT OF STATE-OWNED AGRICULTURAL LAND

RESULTS ACHIEVED

- Key legislation enacted:
 - Amendments to Land Code on zoning (January 2006)
 - Amendments to Law on Management of Agricultural Land to allow for auctions and investment tenders (November 2006)
 - Model Regulation on Management of LRF Land (June 2007)
- Strategic plans for LRF land use developed with citizen input and participation in 130 *aiyl okmotus*.
- 33 LRF land auctions organized by project
- 94 percent of heads of local governments trained on new Model Regulation

During the initial stages of land reform in Kyrgyzstan in 1998, 75 percent of arable land was privatized, and 25 percent remained under state ownership. State-owned lands were placed in a Land Redistribution Fund (LRF), and their management was delegated to *aiyl okmotus* (AOs or local government units). In managing LRF lands, AO heads were charged with ensuring that low-income families had priority when the local government allocated this land and with leasing it in an efficient, transparent manner that would maximize local government revenues. Unfortunately, the capacity of local governments to manage LRF lands was limited, and many AO heads ignored this official guidance, sacrificing greater productivity for short-term personal gain. These local problems of mismanagement were compounded by the absence of a clear and coherent national strategy for LRF land use. Today, after years of neglect, many plots that

were once arable need significant investment before they can be put to productive use.

To improve their management of LRF land, local governments needed technical assistance and training to help them develop procedures to allocate/lease LRF lands more efficiently and transparently. To meet this need, LRMDP staff helped the Government of Kyrgyzstan (GOK) develop a Model Regulation on the Terms and Procedures of LRF Land Lease and implemented it in 10 pilot AOs. The project also presented the GOK with several options for future LRF land use and supported the development of a national strategy framework. These actions resulted in the increased efficiency and transparency of LRF land management, increased productivity of LRF lands, and increased revenues to local government budgets. While LRMDP's work focused on LRF land, project staff also collaborated

with the World Bank to improve Kyrgyzstan's pasturelands. The state retains ownership of pastureland, which makes up 85 percent of existing agriculture land.

IMPLEMENTING THE MODEL REGULATION ON LRF LAND

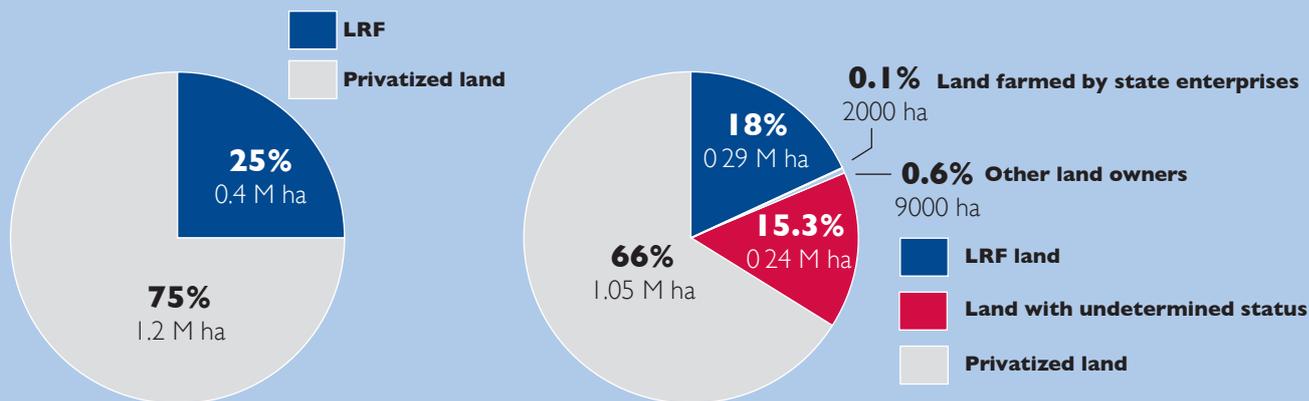
Shortly after contract award, project specialists began promoting the draft Model Regulation on the Terms and Procedures of LRF Land Lease to the GOK. The draft Model Regulation would increase local government efficiency and transparency by providing specific steps they could use to develop strategic plans for LRF land use and management. These steps include:

- Inventorying/mapping LRF land within the AO to record the true size and quality of each land parcel;
- Developing strategic plans for LRF land use that address annual land-use plans, land zoning, and the social needs of AO residents (particularly vulnerable groups);
- Conducting full and open auctions and investment tenders to transparently allocate LRF land leases; and
- Defining the roles and responsibilities of each authorized body dealing with LRF land.

A resident of Don-Bulak makes a bid for a land plot at an auction of leases for land in the state-owned Land Redistribution Fund.

LRMDF / ALMAZ TOKTOMAMETOV





LRF LAND COMPARED TO PRIVATIZED LAND ACCORDING TO THE LAW

LRF LAND COMPARED TO PRIVATIZED LAND ACTUAL SITUATION

During work with LRF land, LRMDP staff found that only 66 percent of the land had been privatized (as of January 2008), not 75 percent as originally intended. In addition, the LRF held only 18 percent of the land, less than the planned 25 percent. The balance — 16 percent — is either being farmed by state-owned enterprises or other land owners or is of undetermined status. Land in this latter category may be under local government oversight and used as an off-the-books source of income, or it may be privately held by farmers. This situation highlighted the need for AOs to develop stronger management of this land, both with respect to inventorying it and planning for its use.

STAGES OF STRATEGIC PLAN DEVELOPMENT

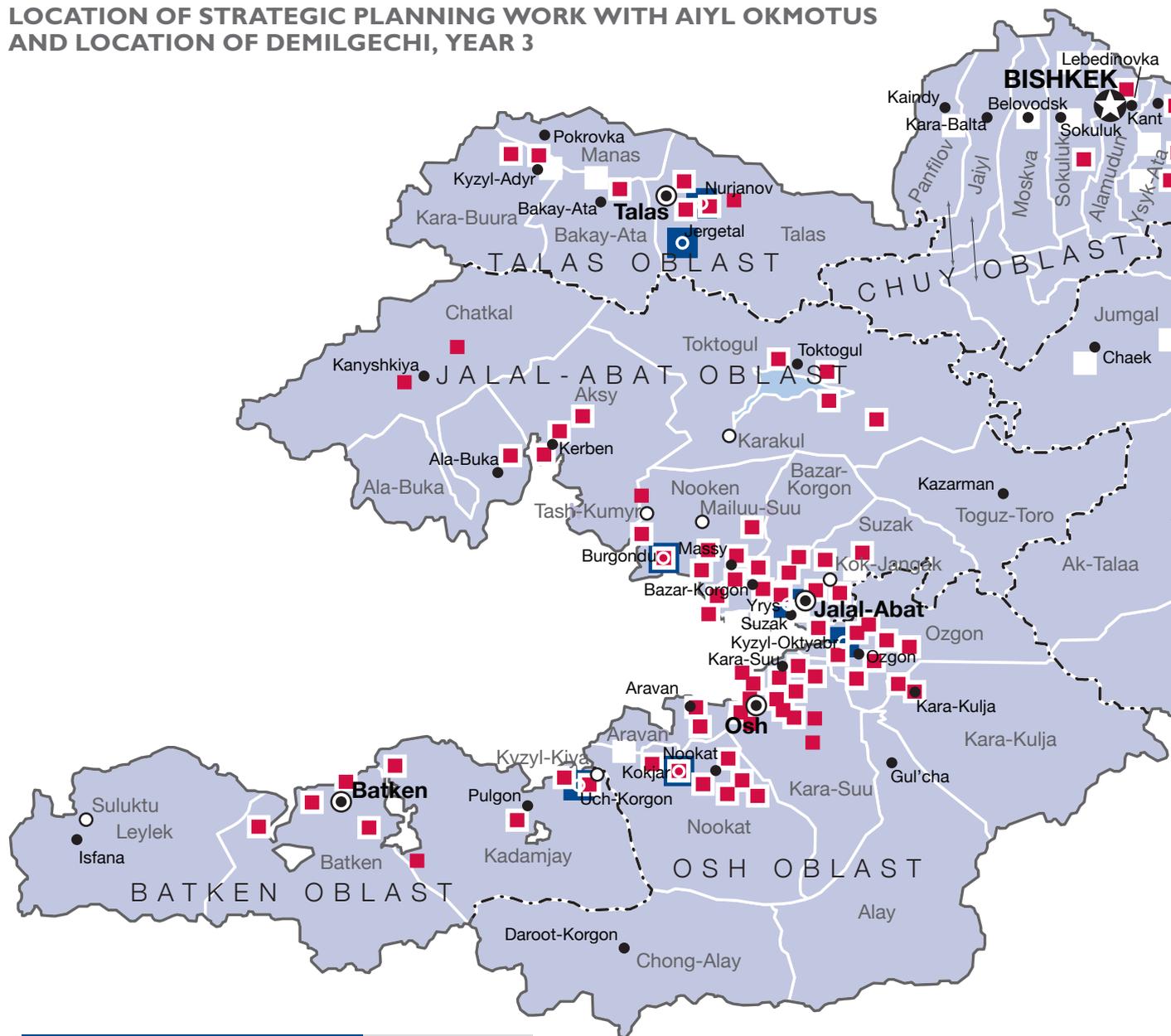
- First public hearing announcing the AO's intention to create a plan
- Land survey and inventory
- Preparation of draft strategic plan
- Second public hearing to present draft strategic plan to the public
- Approval of strategic plan by local council
- Presentation of the State Act granting a right for perpetual use to an AO

Developing strategic plans. After consulting with Gosregister, Ministry of Agriculture, and AO heads, the project team determined that a pilot program for implementing the draft Model Regulation should be piloted in 10 AOs. This program would provide the GOK with concrete examples of what the regulation could achieve and would also ensure it was realistic and incorporated best practices from real-life experience. Pilot AOs were chosen based on the amount of LRF land they owned, the AO's geographic location, the political will of AO heads to cooperate with the pilot, and the relative professionalism of the *demilgechi* (rural activists, discussed in Chapter 3) working in the region.

Once the AOs were selected, public hearings were conducted in each AO to announce the development

of a strategic plan. After that, the inventorying and mapping of LRF land began. Each inventory classified plots as economically viable (colored green on the map), needing investment (yellow), or unclaimed (orange or brown). Armed with knowledge about the amount and quality of LRF resources available, the AOs could establish instructions on the best use of LRF land to meet AO goals, including how the land could be leased to increase local government revenues. These instructions served as the basis for the AO's five-year strategic plan. Following project guidelines, the pilot AOs presented their strategic plans to the public and sought the approval of *aiyl keneshes* (local councils) before formalizing them with the presentation of a State Act. The development of these strategic plans not only built the capacity of local governments to manage LRF

LOCATION OF STRATEGIC PLANNING WORK WITH AIYL OKMOTUS AND LOCATION OF DEMILGECHI, YEAR 3

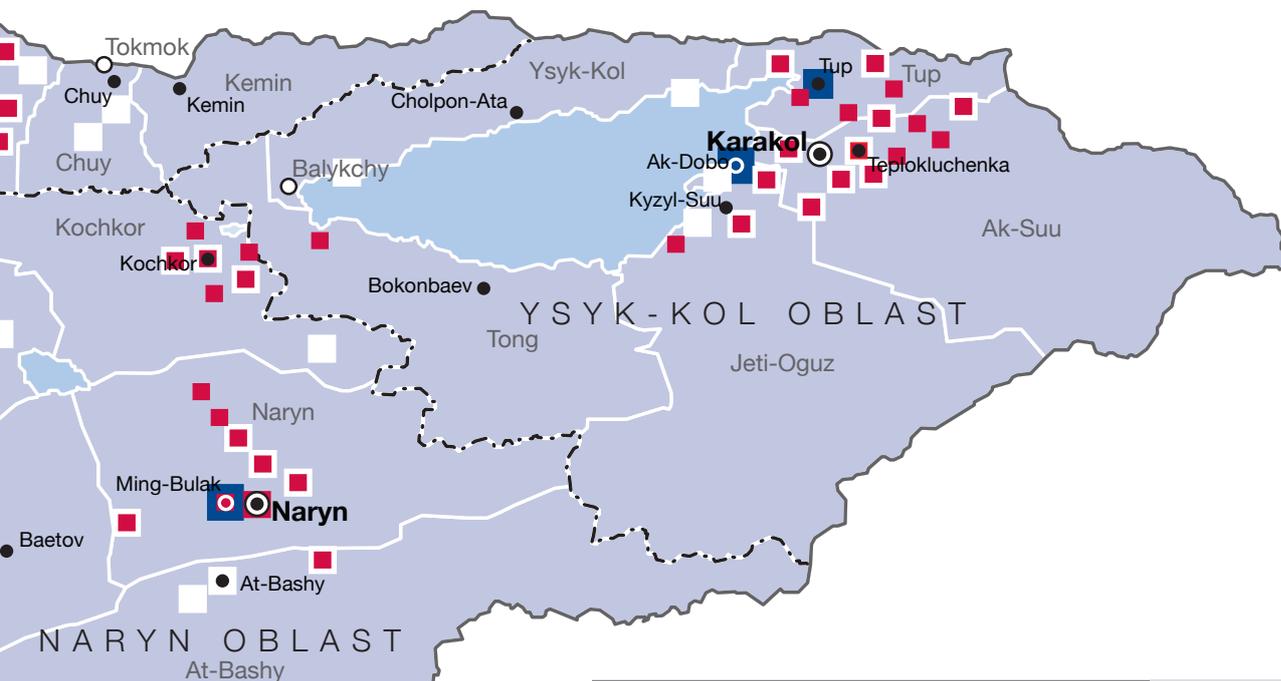


Key

- - - Oblast border
- OSH Name of oblast
- ⊙ Administrative center of oblast
- Rayon border
- Chuy Name of rayon
- City with rayon status
- Administrative center of rayon
- Pilot aiyl okmotu (AO) for LRF strategic plans
- AO where demilgechi (rural activist) works (Year 3)
- LRF strategic plan development in 120 AOs (Year 3)
- Pilot AO for LRF strategic plan development (Year 2)
- Location of zoning work (Years 1 and 2)

Pilot AO for LRF Strategic Plan Development

Aiyl Okmotu	Rayon	Oblast
Ak-Dobo	Jeti-Oguz	Ysyk-Kol
Burgondu	Nookan	Jalal-Abat
Jergetal	Talas	Talas
Kokjar	Nookat	Osh
Kyzyl-Oktyabr	Ozgon	Osh
Mng-Bulak	Naryn	Naryn
Nurjanov	Talas	Talas
Tup	Tup	Ysyk-Kkol
Uch-Korgon	Kadamjay	Batken
Yrys	Suzak	Jalal-Abat



Development of LRF Strategic Plans in 120 AOs

Phase 1
Phase 2
Phase 3

Naryn Oblast

1. Uchkun, Naryn
2. Kara-Kujur, Naryn
3. Kazan-Kuygan, Naryn
4. Kochkor, Kochkor
5. Kum-Dobo, Kochkor
6. Ak-Kyya, Kochkor
7. Ak-Muz, At-Bashy
8. Kara-Suu, At-Bashy
9. At-Bashy, At-Bashy
10. Emgekchil, Naryn
11. On-Archa, Naryn
12. Kok-Oy, Jumgal
13. Kuyruchuk, Jumgal

Ysykkol Oblast

14. Kara-Jal, Ak-Suu
15. Boru-Bash, Ak-Suu
16. Jeti-Oguz, Jeti-Oguz
17. Taldy-Suu, Tup
18. Aral, Tup
19. Teploklyuchenka, Ak-Suu
20. Saruu, Jeti-Oguz
21. Kyzyl-Suu, Jeti-Oguz
22. Lpenka, Jeti-Oguz
23. Toru-Aygyr, Ysyk-Kol
24. Anan'ovo, Ysyk-Kol
25. Yrdyk, Ysyk-Kol
26. Oktyabr', Ak-Suu
27. Ak-Chiy, Ak-Suu
28. Boz-Uchuk, Ak-Suu

Talas Oblast

29. Ka ba, Talas
30. Dolono, Talas
31. Ozgorush, Bakayata
32. Bakyyan, Karabuura
33. Kara-Suu, Talas
34. Ak-Dobo, Bakay-Ata
35. Kara-Buura, Kara-Buura
36. Cholponbay, Kara-Buura

Chuy Oblast

37. Syntash, Ysyk-Ata
38. Kun-Tuu, Sokuluk
39. Arashan, Alamudun
40. Frunze, Sokuluk

41. Kyzyl-Tuu, Sokuluk
42. Logvinenko, Ysyk-Ata
43. Ysyk-Ata, Ysyk-Ata
44. Yur'evka, Ysyk-Ata
45. Panfilov, Panfilov
46. Ala-Archa, Alamudun
47. Saylyk, Chuy
48. Ak-Besh m, Chuy
49. Ivanovka, Ysyk-Ata
50. Belovodsk, Moskva
51. Uzun-Kyr, Ysyk-Ata

Osh Oblast

52. Iyri-Suu, Ozgon
53. Dong-Bulak, Ozgon
54. Karool, Ozgon
55. Kengesh, Nookat
56. On-Eki-Bel, Nookat
57. Jangy-Alay, Alay
58. Myrz-Ake, Ozgon
59. Bash-Dobo, Ozgon
60. Kurshap, Ozgon
61. Ak-Jar, Ozgon
62. Kashkar-Kyshtak, Kara-Suu
63. Nar man, Kara-Suu
64. Bel, Nookat
65. Toolos, Nookat
66. Isanov, Nookat
67. Zulpiev, Nookat
68. Kok-Bel, Nookat
69. Jangy-Nookat, Nookat
70. Otuz-Adyr, Kara-Suu
71. Kyzyl-Kyshtak, Kara-Suu
72. Mady, Kara-Suu
73. Katta-Talldyk, Kara-Suu
74. Joosh, Kara-Suu
75. Shark, Kara-Suu
76. Toloykon, Kara-Suu
77. Jangy-Aryk, Kara-Suu
78. Kara-Kulja, Kara-Kulja
79. Kara-Kochkor, Kara-Kulja
80. Ally-Anarov, Aravan
81. Mangyt, Aravan

Jalalabat Oblast

82. Barpy, Suzak
83. Kyzyl-Tuu, Suzak
84. Tash-Bulak, Suzak
85. Taldy-Bulak, Bazar-Korgon
86. Seydekum, Suzak
87. Sakaldy, Nooken
88. Shaydan, Nooken
89. Jangy-Jol, Toktogul
90. Atabekov, Suzak
91. Suzak, Suzak
92. Kurmanbek, Suzak
93. Kara-Daryya, Suzak
94. Bagysh, Suzak
95. Len n, Suzak
96. Kyz-Kol, Suzak
97. Kokart, Suzak
98. Mombekov, Nooken
99. Dostuk, Nooken
100. Nooken, Nooken
101. Aral, Nooken
102. Uch-Korgon, Bazar-Korgon
103. Kengesh, Bazar-Korgon
104. Bazar-Korgon, Bazar-Korgon
105. Besh k-Jon, Bazar-Korgon
106. Torkent, Toktogul
107. Uch-Terek, Toktogul
108. Kyzyl-Ozgorush, Toktogul
109. Kerben, Aksy
110. Kosh-Dobo, Aksy
111. Jergetal, Aksy
112. Ak-Tam, Ala-Buka

Batken Oblast

113. Dara, Batken
114. Kara-Bak, Batken
115. Kara-Bulak, Batken
116. Samarkandek, Batken
117. Ak-Turpak, Kadamjay
118. Masaliev, Kadamjay
119. Orozbekov, Kadamjay
120. Markaz, Kadamjay

Demilgechi Network

Oblast	Year 1	Year 2	Total
Chuy	5	--	5
Talas	6	--	6
Ysyk-Kol	8	11	19
Naryn	8	7	15
Osh	9	22	31
Jalal-Abat	9	26	35
Batken	4	5	9
Total	49	71	120

Residents bid on LRF land leases at one of the project's first auctions in Burgondu AO.

LRMDP / CHYNARA ANAPOVA



land and increase local government revenue but also stimulated local democracy. The plans were developed in a fully transparent manner and emphasized local decision-making in determining how community resources should be used to increase the local budget.

Supporting the passage of the Model Regulation. The pilot program for the 10 AOs ended in March 2007. Based on the pilot results, LRMDP staff helped the GOK refine the Model Regulation, and three months later, it was enacted into law. The GOK's swiftness in approving the Model Regulation illustrates the importance it attributed to the project's work improving LRF management. With strong backing from the GOK and *Jogorku Kenesh* (Parliament), the project expanded its assistance beyond the 10 pilots to include 120 additional AOs, covering 33 percent of all LRF land.

Expanding implementation to 120 additional AOs. LRMDP staff worked in a close partnership with each AO to develop their strategic plans and get them into operation as soon as was practical. Because Gosregister's survey branch did not have sufficient resources to support the strategic planning within the short time frame, project staff subcontracted a private firm, AtlasPlus, to survey the fields and to resolve any boundary conflicts. AtlasPlus also trained about 50 specialists from local Gosregister offices and land surveyors from the 10 pilot AOs in inventory procedures and mapping methods (using modern geo-information systems). By the end of the project, LRMDP staff had helped a total of 130 AOs develop and implement their strategic plans.

Conducting LRF land auctions and investment tenders. According to the Model Regulation, once a strategic plan is approved, the AOs should offer all available arable land leases in

competitive auction. Before developing a strategic plan, AOs generally granted leases directly to residents at low prices and the identity of lessees was difficult to determine. Competitive auctions increase the transparency of lease allocation, provide the public with the opportunity to monitor AO adherence to the strategic plan, and allow the public to see who wins the leases. In addition, they allow the AO to secure the highest price a bidder is willing to pay, leading to higher income for the local government. Each auction was announced 30 days before it was held to ensure all interested parties could participate. To help AOs conduct auctions, project staff prepared a comprehensive instruction

manual based on lessons learned and best practices.

In total, LRMDP supported 33 auctions with a value of \$216,670 — an increase of 327 percent (or \$165,940) over the revenue generated through leases the previous year. Another 14 auctions were conducted by the AOs independently, without project support. Average auctioned lots were one hectare in size, and the average starting price was 1,000 som per year. The results of these auctions varied according to several factors, including the location of the AO, the location of LRF land within the AO, the degree of plot fragmentation, and



LRMDP / CHYNARA ARAPOVA

Residents of Kyzyl-Oktyabr' AO examine a land inventory during a public hearing about their AO's new strategic plan.

INVESTMENT TENDERS:

Lessons Learned

Distributing investment among several lessees improves outcomes. In cases where land parcels require significant investment and no investor is willing to do so, it is more effective to design a single investment project for several nearby parcels of this type and enable lessees to participate as co-investors with fixed or proportional investments. In such a case, the financial appraisal methodology (using fixed investments, described in text below) proved to be very effective.

Attracting necessary investment is difficult. The technical method becomes economically sound when bidding on large land parcels (at least 50 hectares). However, attracting the necessary investment is difficult because:

- Locals lack the required funds;
- Locals dislike investors from other parts of the country;
- Investors have limited interest in leasing land, even for a long-term period;
- Most farmers are not ready to assume the risk of investing large sums in land as there is no guarantee of a future return; and

- Many farmers are unfamiliar with the concept of investment.

Financial method offers multiple benefits. AO specialists and tender participants embraced the financial method because:

- It did not require a large investment, which enabled many local residents to participate in the bidding;
- Bids were opened in full view of participants, which minimized the risk of falsification and manipulation of tender results and thus minimized resentment among losing bidders; and
- Bids were projected on screen, which enabled losing bidders to see how their bids compared to others and helped them learn how to prepare a more competitive bid next time.

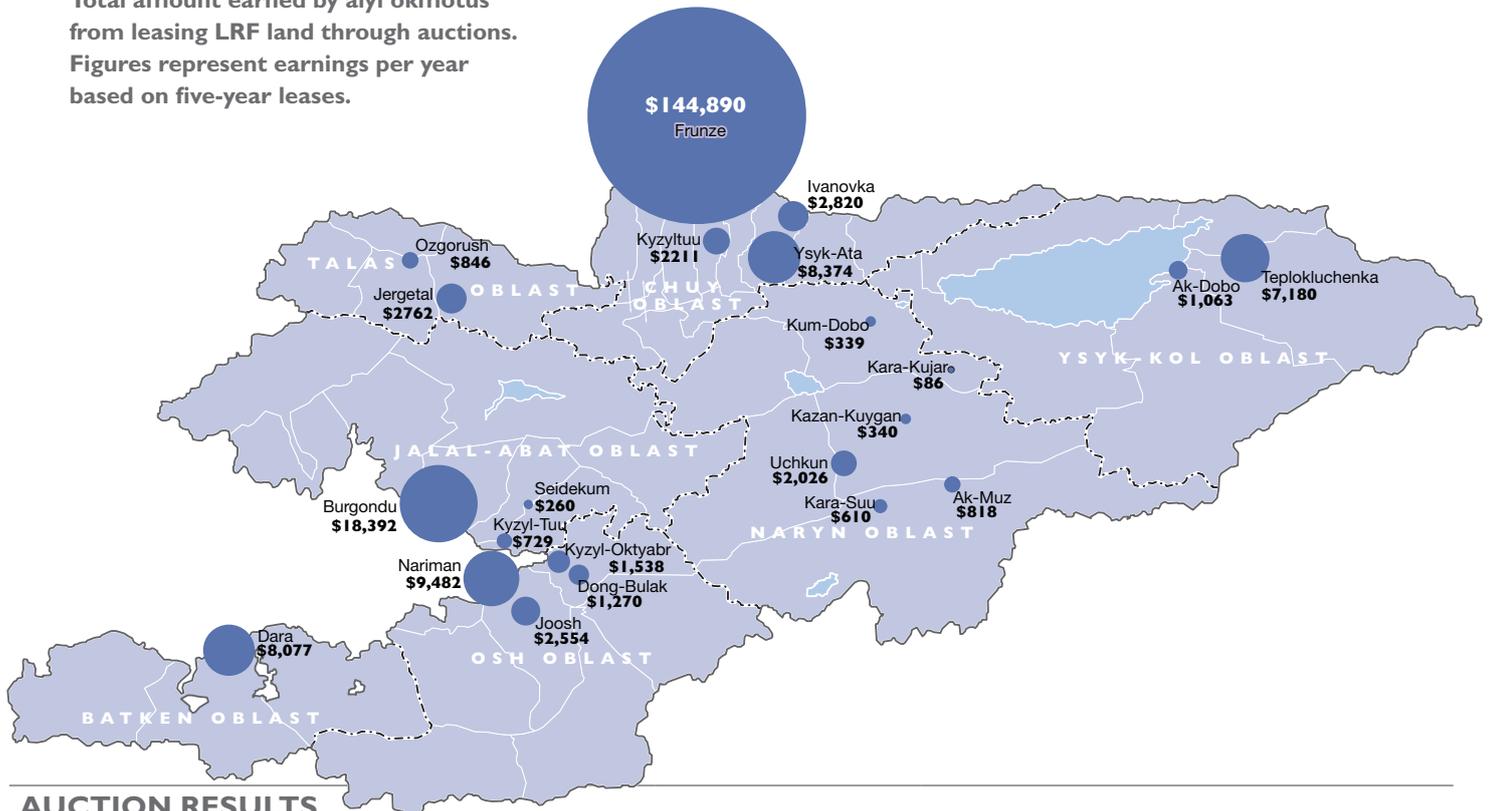
Use simplified materials. Because of the low level of literacy among most tender participants, bidding templates must be as simple as possible.

the quality of the soil. Analysis of the expected income from auctions show that, for some AOs, auctioned leases gave them only a modest increase in earnings as compared to allocated leases. But for others — like Burgondu AO — government budgets saw impressive increases of up to 250 percent. Predictably, in AOs where leases were already set at prevailing market rates, such as Nariman, the increases were small (some 2 percent).

For non-arable LRF land requiring investment, the project developed and tested two methods of structured bidding to encourage more productive use of LRF land: a technical method and a financial method. The technical method was used for land requiring substantial investment to make it usable. With this method, bids were judged according to the amount of investment they proposed. While these bids were scored on both the value of the proposed investment and the

EARNINGS FROM LRF LAND AUCTIONS

Total amount earned by aiyl okmotus from leasing LRF land through auctions. Figures represent earnings per year based on five-year leases.

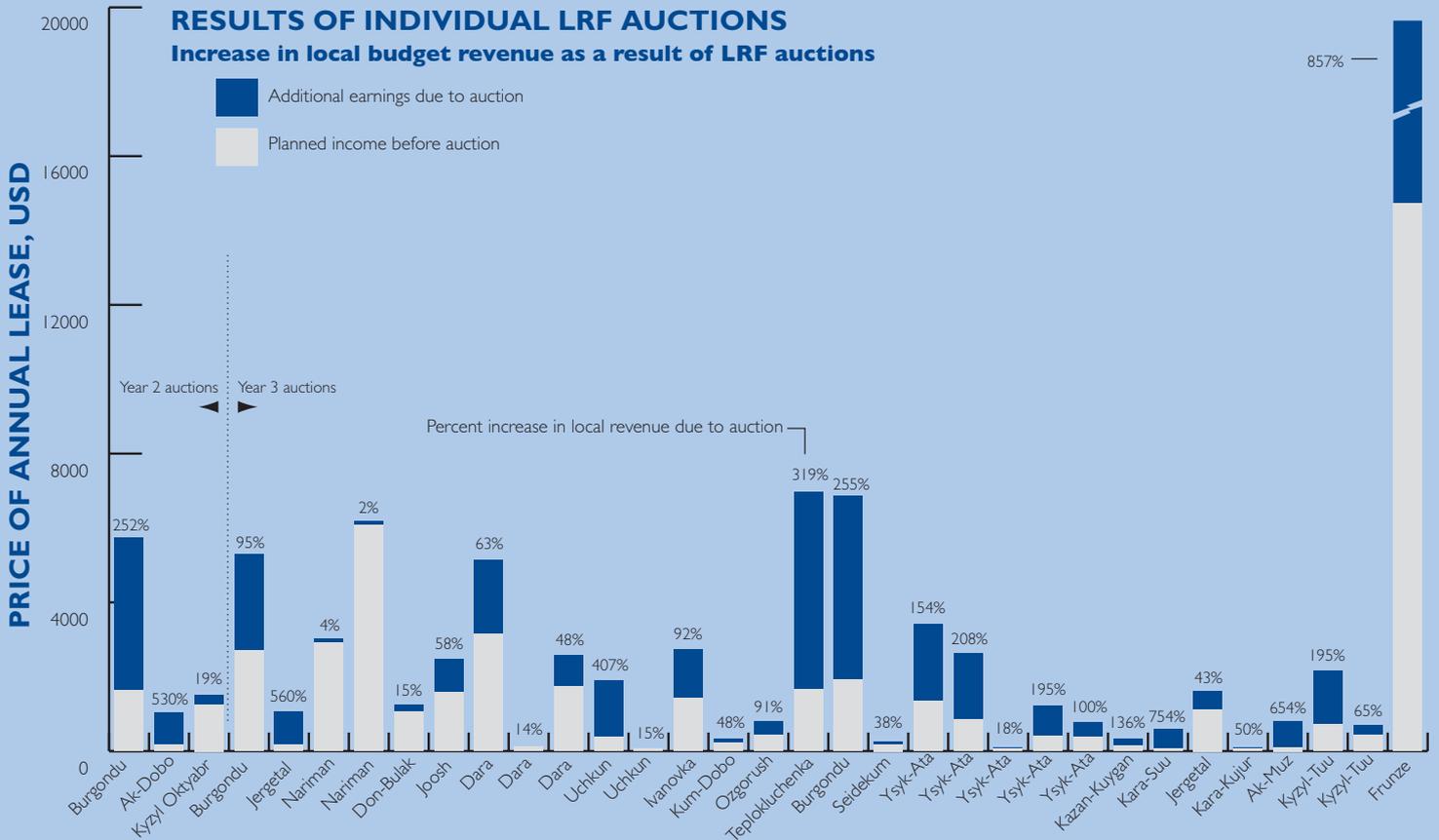


AUCTION RESULTS

	Planned income before auctions	Earnings from auction	Additional income from auctions	% increase
TOTAL SOM	1,775,531	7,583,449	5,807,918	327%
TOTAL USD	\$50,729	\$216,670	\$165,940	

RESULTS OF INDIVIDUAL LRF AUCTIONS

Increase in local budget revenue as a result of LRF auctions



proposed lease payment, the former score was weighted 90 percent and the latter 10 percent. For land requiring a smaller investment to make it usable, the financial method was used. In this case, local authorities weighted the proposed lease payment more (90 percent) than the proposed investment (10 percent). Local residents and officials were impressed with the transparency of the process, specifically how a laptop and projector were used to display the calculation of bid scores and consequently avoid disputes. However, the project

noted that the average farmer generally does not have the financial resources to make even the smallest of investments in land.

Investment tenders were ultimately tested in three AOs. The most successful investment tender was held in Teplokluchenka AO, whose land had previously been leased to an agricultural cooperative and was therefore of better quality than that of the other two sites, Tup and Ak-Dobo AOs. The resulting lease prices were, on average, five times higher than before the tender. In Tup, where the

DEVELOPING STRATEGIC PLANS: RECOMMENDATIONS

Creating Land Inventories

Compare existing records and in-person surveys to establish land inventory. While helping AOs create land inventories, LRMDP staff found discrepancies between Gosregister records, AO records, and actual land use. These discrepancies delayed the process of verifying the borders and sizes of LRF land parcels and illustrated the importance of surveying plots directly in the field.

Maintain constructive relations with local Gosregister offices. In some cases, local Gosregister offices showed little interest in cooperating with the project despite the national Gosregister office's agreement to do so. Usually, local offices' reluctance was due to the absence of additional pay to complete project-related work.

Allocate resources to update all necessary information. Information AOs provided as the basis of their strategic plans (e.g., lists of lessees, areas of non-irrigated and irrigated lands) was often outdated and required updating.

Preparing Draft Strategic Plans

Plan time and strategies to address disputes. The heads of some AOs tried to force project staff to illegally record a decreased size for their LRF holdings, arguing that some LRF land was no longer used because it was

degraded. For example, the head of Logvinenko AO, Chuy Oblast, insisted that the Logvinenko strategic plan include approximately 10 hectares less LRF land than the official figure because these 10 hectares had been illegally seized by private owners (and some was now under drainage canals). The project team had to explain the legal procedures necessary to reclassify the land from one category to another or to withdraw it from the LRF. Disputes like this one delayed the drafting of strategic plans.

Allocate sufficient resources to areas with higher concentrations of land plots. Developing strategic plans in south Kyrgyzstan required more time due to the small size of LRF land plots and the large amount of LRF land, which often exceeds 1,000 hectares per AO.

Holding Public Hearings

Create procedures for incorporating residents' proposals into strategic plans. During the presentation of strategic plans to the public, local residents and members of the local council occasionally recommended changes to the borders of LRF land. The involvement of project staff in the hearings and the council meetings put pressure on council members to resist making these unauthorized changes.

land plots were far from the town and had not been used for several years, the resulting lease prices were lower. Nonetheless, the tender in Tup succeeded in leasing land that had been unused for several years.

Best practices and lessons learned. In supporting the implementation of the Model Regulation in 130 AOs across Kyrgyzstan, the project was able to gather some valuable recommendations throughout every stage of the process — from developing strategic plans to conducting auctions and investment

tenders. We have captured these lessons in the box below for the benefit of future implementers and local governments.

DEVELOPING PROPOSALS FOR FUTURE LRF LAND USE

While improving the management of state-owned land at the local level, the project team simultaneously helped the national government develop an overall strategy for LRF land use. In October 2007, the GOK created an interagency

LRF LAND AUCTIONS: RECOMMENDATIONS

Hold authorities responsible for conduct of auctions. In the majority of the AOs, government had never held auctions to lease LRF lands. As a result, violations of auction rules occurred several times. For example, in some instances, the date and auction conditions (available lots, starting price, location of land plots, etc.) were not announced a month in advance. To ensure transparent allocation of LRF lands, AOs must hold their auctions in accordance with the legally required procedures.

Train populace in the conduct and purpose of auctions. Because auctions are new to Kyrgyzstan, many people did not understand the benefits of an auction (i.e., transparency, increased revenue) or how to conduct one. Locals sometimes boycotted auctions because they did not trust they would be fair and believed that only wealthy citizens could win. To counter these misperceptions, local administrators and farmers must be trained in the purpose, benefits, and rules of transparent auctions (according to Kyrgyzstan's laws).

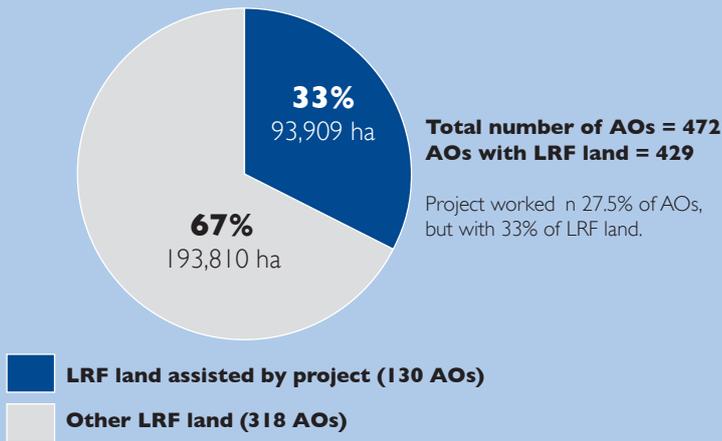
Encourage Ministry of Agriculture to fulfill its oversight role. The Ministry of Agriculture is charged with supervising AOs' conduct of auctions. If this role is not fulfilled, the chances of auction-procedure violations will increase, along with opportunities for corruption.

Promote use of portion of LRF rent to improve the land. Article 8 of Land Code and Clause 87 of the Model Regulation require that a portion of the funds from the land tax and LRF lease payment be allocated to upgrade LRF land. Unfortunately, this legislation is not enforced. The future productivity of this land depends on improvements financed through these payments.

Ensure that all learn from early mistakes. Some bidders drove up the price of a plot in the heat of the bidding only to find themselves unable to meet their own price once they had calculated their potential profits in the post-auction calm. Consequently, they refused to sign the lease agreement, lost their safety deposits, and were excluded from the second auction for these plots. While painful for the farmers involved, these lessons proved useful in instructing the public in the rules and risks of auctions.

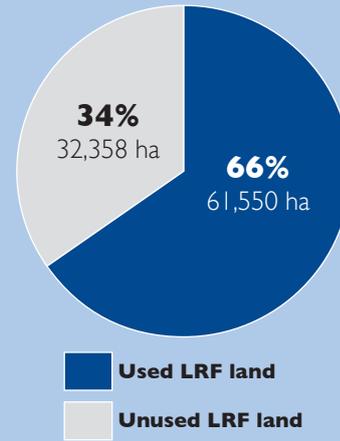
PROJECT ASSISTANCE ON LRF LAND

LRF LAND ASSISTED BY PROJECT COMPARED TO LRF LAND IN NON-PROJECT AOs



FINDINGS ON LRF LAND USE

LRF LAND USE



LRMDP / IRINA EGIMBAEVA

Employees of AtlasPlus — hired by LRMDP to map and inventory LRF land — demonstrate how to use the Total Station equipment.

OBJECTIVES OF STRATEGY ON LRF LAND USE

Working with project staff, the Government of Kyrgyzstan identified the following objectives for the strategy on future use of LRF lands:

- Transfer LRF land to a newly created State Agricultural Land Fund (SALF). This fund will lease land to agricultural producers, use it to expand settlements according to rules of construction and land use, and allocate it for other needs defined by the government.
- Discontinue current practice of allocating LRF land as land shares and leave to the courts the power to assign rights to land.
- Adopt statutory acts that specify clear procedures for changing the designated use of agricultural land from one type to another (e.g., agricultural to residential).
- Require (in law) that unproductive LRF land be the first land used to expand settlements.
- Stipulate that part of a lease payment for SALF land must be used to improve that land.
- Appoint a member of the rayon-level Ministry of Agriculture staff to oversee the implementation of AOs' strategic plans for use of SALF land.
- Allocate government funding to inventory SALF land.

FOUR OPTIONS FOR FUTURE LRF LAND USE

- Retain state ownership of the LRF and improve its local administration.
- Transfer LRF land to municipal ownership at a designated time in the future.
- Privatize LRF land in need of substantial investment and transfer the remainder to municipal ownership at a future time.
- Privatize LRF land immediately through public auction.

commission to develop this strategy. Based on its analysis of LRF land, the LRMDP team presented the commission with four possibilities (see box at left).

Although project staff recommended the third option, the commission chose the first. The GOK's reluctance to privatize LRF land suggests that it sees the LRF as an important tool to protect the country's food security and an important source of revenue for local budgets. The project team helped the commission's working group prepare a draft strategy to implement its decision. In December 2007, the commission finished a draft of the Strategy on the Future LRF Land Use, which defines new goals for use of the fund's land. It also defines which state body has authority over LRF land and

institutes mechanisms that limit unjustified reduction of LRF land. In addition, it calls for efficient use of fund lands by local governments and for investment to improve its quality. In June 2008, the final version of the strategy was forwarded to the government for enactment. The GOK's decisiveness in improving the national management of the LRF demonstrates that it recognizes how years of neglect has produced inefficient local management and decreased productive capacity.

The GOK also appears to recognize that if state ownership of LRF land is to be maintained, the complete contents of the LRF must be known. The GOK has instructed Gosregister to inventory all LRF land during 2008–2009, thereby institutionalizing the project's successful mapping work. The Ministry of Finance al-

SUCCESS STORY

Auctions help local governments



LRMDF / CHYNARA-ARAOVA

USAID's Land Reform and Market Development Project assisted 130 aiyl okmotus throughout Kyrgyzstan to inventory the state-owned land they administer. The project surveys the land, clarifies its borders, and develops a five-year strategic plan with the AO to manage the land. As part of the process, the project team holds public hearings on the strategic plans so that local residents can learn about the AO's plans. Once the plan is approved, the project assists AOs in organizing auctions to lease the land to local farmers.

When Kyrgyzstan privatized arable land in 1998, the government was to retain 25 percent of such land in the Land Redistribution Fund (LRF), which is managed by local governments. These lands play several important roles in local life. On the one hand, they offer farmers with small plots a source of additional land to expand their operations and their income. On the other hand, interested farmers (private or commercial) lease this land from local governments, and their yearly payments increase the local treasury. However, past use of LRF lands has too often been inefficient and nontransparent, and as a result it failed to properly serve either of the essential roles mentioned above.

Recognizing the importance of this land, USAID helped 130 rural municipalities (or about a third of all municipalities with LRF land) more efficiently and transparently use it by first surveying, mapping, inventorying, and zoning the land, and then developing five-year strategic plans to use it effectively. Based on government priorities in the plans, USAID's Land Reform and Market Development project helped local governments auction off leases for LRF land parcels. For example, in July 2008, the aiyl okmotu of Frunze successfully auctioned off 63 of 80 LRF land plots with impressive results. Located close to Bishkek, the LRF land managed by the Frunze AO is of good quality. As a result, bidding for this land was highly competitive, and the lease price for one hectare reached approximately \$820/year for irrigated land and \$430/year for non-irrigated land. Total earnings from the auction came to around \$140,860. By comparison, Frunze's planned budget for 2008 was \$140,722! This one auction — which leased just 38 percent of Frunze's total LRF land — effectively doubled the municipality's annual budget.

located an initial 3.5 million som (\$100,000) to Kyrgyzgiprozem (the Kyrgyz State Project Institute for Land Management) to carry out this task in 2008. Kyrgyzgiprozem will survey the size and location of LRF parcels and will analyze soil quality.

IMPROVING PASTURE MANAGEMENT

Though the majority of LRMDP work focused on LRF land, the project also worked in pasture-land management. Given that much of rural Kyrgyzstan is too mountainous for farming, pastures — which support livestock breeding — are an important economic and environmental asset for rural residents. However, the country's pastures are in trouble: 79 percent suffer from

degradation, erosion, and contamination. These problems are largely caused by the lack of a coordinated state policy governing pasture use. Multiple government bodies are charged with managing pastures, and none of them have created a role for local communities, the primary users of pastures. In addition, state bodies lack the ability to enforce pasture protections or entice investment to improve poor infrastructure.

Given the extent of these challenges, LRMDP staff cooperated with the World Bank's pasture management project in analyzing pasture-related legislation and developing recommended amendments to improve the management of pastures. In its report, *Suggestions for Improvement to*

Residents of Samarkandek AO in Batken Oblast discuss the status of different land plots during the process of mapping LRF land for their strategic plan.

LRMDP / KUSHIYARBEK TASHKULOV





LRMDP / ERIC FILIPINK



LRMDP / ERIC FILIPINK



LRMDP / ERIC FILIPINK

Examples of degraded land. Degraded land requires a significant amount of investment before it can be profitably used for farming.

TOP to BOTTOM: Rocky soil, land infested with reeds, and land being taken over by wild forests.



LRMDP / ERIC FILIPINK

As a result of poor management, pasturelands near villages are often overgrazed.

Pasture Management in the Kyrgyz Republic, the World Bank calls for decentralizing the management of pastures to the AOs, in cooperation with pasture management councils (PMC). It also recommends that PMCs be made up of residents who own livestock and use pastures. Together, the AOs and PMCs should develop pasture management plans. The involvement of PMCs in managing pastures should result in local communities taking increased responsibility for pasture use, preservation, and rehabilitation. In addition, the PMC should take the rights of socially vulnerable groups into consideration when allocating pastures for use among its members.

The report further recommends that PMCs allocate pasture access through the sale of pasture tickets based on the number of livestock per user. However, the LRMDP staff disagreed with the World Bank's recommendation to completely eliminate pasture leases in favor of these tickets. Instead, the LRMDP team recommended retaining pasture leases in cases where there are large commercially oriented users (such as cattle breeders) interested in purchasing them. Unlike smaller users likely interested in nearby land, such large users will be more interested in leasing less-used distant pastures, and their use of these lands could reverse degradation resulting from disuse.



LONDPA / DMITRY GUDKOV

A farmer sows her privately owned land plot. Land in Kyrgyzstan has been privatized, but legal obstacles have prevented investment in the land and kept farmers from obtaining credit very easily.

STIMULATING THE MARKET FOR PRIVATE AGRICULTURAL LAND

RESULTS ACHIEVED

- Land transactions did not grow 25 percent between project Years 1 and 2 or 20 percent between Years 2 and 3 largely due to legal impediments to the development of a land market.
- Political changes prevented amendments to the Law on Agricultural Land Management from being adopted as planned in 2007.

Although Kyrgyzstan initiated private ownership of agricultural land a decade ago, its rural land market remains underdeveloped. According to recent statistics, rural land transactions lag significantly behind urban land transactions and represent only 5 percent of total land sales in the country during the past four years. Given the importance of the agricultural sector to the economy as a whole, Kyrgyzstan's agricultural land market should be larger and more vibrant. Instead, the number of agricultural land mortgages have fallen some 75 percent over the past four years, from 530 registered transactions in 2004 to only 133 in 2007. While registered leases of agricultural land increased during this period, the rise was a meager 14 percent (from 2,558 in 2004 to 2,906 in 2007).

Investment in rural land is primarily limited by two issues. First, only rural residents that have lived

in a village for at least two years can own agricultural land. This legal restriction has stifled investment in rural land and prevented commercial banks from accepting it as collateral for loans, which has further limited the capital available for investment. The valuation of land based on a normative value has also made it difficult for farmers to obtain the credit needed for their farming operations. Allowing legal entities, such as corporate farms, urban residents, and municipalities, to own rural land would increase demand for agricultural land, boost the value of this land, and help improve the agricultural economy.

Second, the small size of many rural landholdings prevents farmers from earning enough to reinvest in their operations. During privatization, 90 percent of rural residents were entitled to receive land, and farmers received an average of 0.37 hectares. Parcels of this size limit

PROJECT-SUPPORTED LEGISLATIVE CHANGES

TO REMOVE RESTRICTIONS ON LAND OWNERSHIP

Land Code

- Allow direct allocation of land plots (without public sales) for cases when
 - the land did not find a buyer after two auctions, or
 - the land is not eligible for sale (e.g., because it has private buildings or other construction on it).
- Introduce new approach to classify servitudes (or specific land rights held by non-owners) based on the interest of the party benefiting from servitude.
- End the governmental practice of assuming control of a land plot for non-payment of the land and social taxes. In such cases, the relevant bodies will follow judicial procedures to collect the debts.
- Establish legal basis for eminent domain, identify all cases in which the government plans to reappropriate land, and investigate them to avoid arbitrary action and corruption in state and municipal structures.
- End use of a set normative price for a land plot in public auctions.

Law on Agricultural Land Management

- Expand pool of eligible owners of agricultural land to include legal entities, urban residents, and banks and financial/credit organizations (for up to one year).
- Remove limit on the maximum size of an agricultural land plot.

TO EXPAND AVAILABILITY OF MORTGAGES FOR AGRICULTURAL LAND

Land Code

- End use of set normative price for public sale of land.

Law on Agricultural Land Management

- Expand pool of eligible owners of agricultural land to include legal entities, urban residents, and banks and financial/credit organizations (for up to one year).

Law on Pledge

- End use of set normative price for public sale of land.

Law on Banks and Banking Activity

- Allow banks and financial/credit organizations to own a land plot of agricultural land for up to one year.

Decree No. 47 on the Approval of the Order of Determining the Value Appraisal (Normative Price) of Agricultural Land (February 4, 2002)

- End use of set normative price for public sale of land.

Temporary Requirements for Mortgage Lending for Land Plots of an Agricultural Purpose (September 4, 2002)

- Remove the requirement that banks lend an amount equal to at least 50 percent of the normative price of land plot on which they seek a mortgage.

LEGISLATIVE INITIATIVES IN DRAFT STAGE

Law on Transformation

- Define procedures for reclassifying land from one category to another (e.g., from agricultural to residential).

Tax Code

- Exempt aiyl okmotus from paying tax on unused land and void land ownership without allowing that legal change to serve as a basis for taxation.

Farmers plow their land using land-intensive implements and animal labor. LRMDP helped increase farmers' options for affordable credit, which they can use to buy more efficient farming methods.

LRMDP / ERIC FULFINK



a farmer's production capacity and efficiency. As a result, farmers cannot produce enough to fund working expenses like fertilizer or the maintenance of irrigation and drainage canals. In its analysis of the land market, LRMDP staff found that farmers were intensively farming their small land plots with less and less money available for investment. As a result, they were producing what they needed to survive and only a small amount beyond that for market. Farmers (and investors) seeking land to purchase are not interested in such small parcels.

To promote investment in rural land, LRMDP staff pursued several solutions: (1) developing legislation that would facilitate the growth of agricultural land markets and promote economic growth and (2) creating tools and mechanisms at the national and local levels to increase the effectiveness of land use. To stimulate a more active and ef-

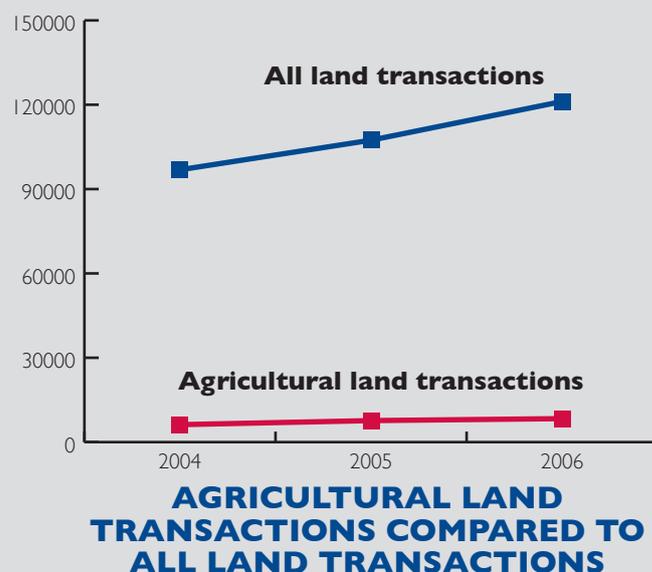
fective land market in Kyrgyzstan, LRMDP staff worked to remove legislative obstacles limiting the sale of agricultural land and to introduce legislative changes to allow the mortgaging of agricultural land. They also undertook activities to increase the information available to people interested in buying or selling land; for example, the project team developed model contracts and disseminated information about land prices.

REMOVING LEGAL RESTRICTIONS ON OWNERSHIP

While some progress was made towards effecting legislative change, it was significantly delayed by the adoption of a new constitution in October 2007, followed by the dissolution of Parliament and new elections. This major political event meant that project staff had to reintroduce many of the issues related to the land market to a new

KYRGYZSTAN LAND MARKET STATISTICS, 2007

Despite the significance of the agricultural sector to Kyrgyzstan's economy, data from Gosregister show that transactions of agricultural land have stayed relatively flat when compared to overall land transactions, including urban land. Sales of agricultural land have grown, nearly doubling since 2004, but other types of agricultural land transactions have decreased. Mortgages of agricultural land, in particular, have decreased. This reflects the reluctance of banks to offer such mortgages and reflects the lack of investment in agricultural land.



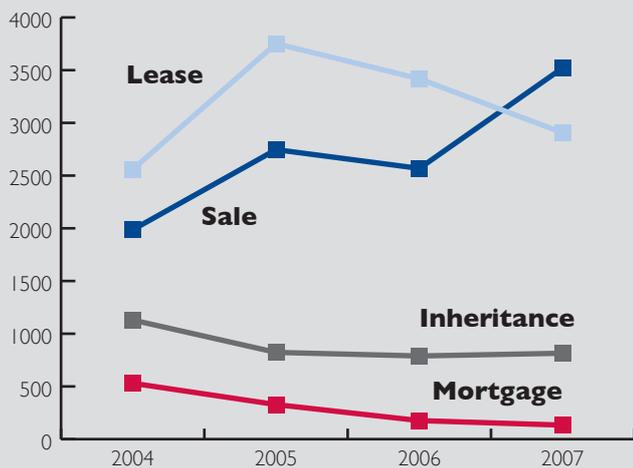
group of parliamentarians and government officials, who are still considering whether to adopt the changes proposed by the project.

The primary legal obstacle limiting transactions of agricultural land is the restrictions on owning it. According to the law, only individuals who are resident in a village for two years can own agricultural land. Urban residents, legal entities (except agricultural cooperatives), and local governments are all barred from ownership. Not only do these restrictions limit the number of transactions possible, but they also limit fresh investment in land, potentially exacerbating the problems of disuse and degradation.

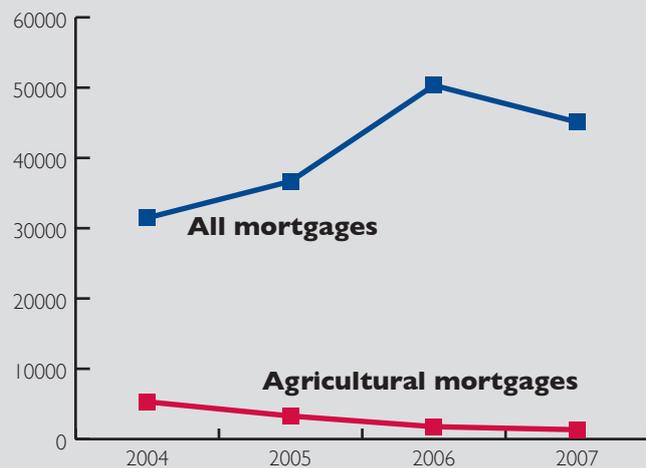
To address these obstacles, LRMDP drafted changes to the Land Code and the Law on Agricultural Land Management that would expand potential owners of agricultural land to

include legal entities, residents of Kyrgyzstan's cities, and banks and financial/credit organizations. (To prevent banking institutions — including foreign-owned institutions — from buying up land, these organizations can only own land for one year or less.) Project-recommended changes also lifted the ban on donating land and on exchanging agricultural land within the boundaries of an *aiyl okmotu*.

Progress on implementing these proposed changes, first presented to Parliament in October 2007, was slowed when Kyrgyzstan held a referendum on a new constitution and subsequently dissolved Parliament (the *Jogorku Kenesh*). As a result, project staff had to begin the process of educating parliamentary and government officials once again after the election. The idea of relaxing restrictions on owning agricultural land produced vigorous debates within



TYPES OF AGRICULTURAL LAND TRANSACTIONS



AGRICULTURAL MORTGAGES COMPARED TO ALL MORTGAGES

the Parliamentary Committee on Land and Agrarian Issues. The political situation also complicated matters. Some officials felt the time was not right for such changes, an opinion shared by those MPs worried about the loss of Kyrgyz land to foreigners.

Facing an impasse, the LRMDP team changed its strategy, approaching the problem from a completely different direction and successfully breaking the log-jam on this issue. Staff had been working with the Investment Council to promote mortgages on agricultural land and approached the Council about lifting the ownership restrictions as part of the mortgage work. The Council backed the issue and, as a result of its efforts, Kyrgyzstan's president agreed to back the changes needed to expand mortgages for agricultural land. These changes included lifting the restrictions on land ownership and

are currently under consideration by Parliament.

MAKING MORTGAGES AVAILABLE

In addition to the changes being introduced to lift the restrictions on agricultural land ownership, to promote the mortgage of this land, LRMDP saw that it was necessary to end the use of normative prices for public sales of land and remove the requirement of having to take credit that is no less than 50 percent of the normative price.

As the government did not yet see the benefits of removing the restrictions on agricultural land ownership, the project revised its strategy and decided to focus greater attention to promoting the amendments through the Investment Council, as it was working to develop the mortgage of agricultural land. At the end of April, the Ministry of Agriculture

set up a working group to enact the decisions of the Investment Council. The working group, chaired by the deputy minister of agriculture, is composed of representatives from the banking sector, state structures, and the project. This working group drafted proposals for amending existing legislation to develop agricultural land mortgage.

On May 14, the project provided support in conducting an enlarged session of the working group to review the legislative amendments. The enlarged group included members of the Jogorku Kenesh, the National Bank and the private banking sector, and Gosregister. At the Investment Council meeting on June 20, the president agreed to the proposed amendments and tasked the Ministry of Agriculture with submitting drafts for government and Jogorku Kenesh consideration by September 2008.

To introduce the mortgage of agricultural land, several pieces of legislation including the Land Code, the Law on Agricultural Land Management, the Law on Mortgage, the Law on Banks and Banking Activities and relevant government decrees, will need to be amended. The changes will require the valuation of land to be market-based, rather than set as a normative value; allow urban dwellers and local legal entities to own agricultural land; and grant banks and other financial and credit institutions (including ones with foreign capital) the right to own agricultural land for up to one year.

INCREASING OPPORTUNITIES FOR LAND TRANSACTIONS

New tools. Alongside its work to remove legal barriers to a functioning land market, LRMDP staff also worked to make it easier for interested parties to undertake land transactions under existing law. In a significant accomplishment, project staff worked with legal aid centers to develop model land transaction contracts in both Kyrgyz and Russian. Created in accordance with the law, these model contracts can help farmers to move forward with transactions without being delayed by worries that their documents were not in order or that the other party had designed documents to deceive. Project staff distributed CD-ROMs of these forms to demilgechi, judicial bodies, notaries, legal aid lawyers, Gosregister, heads of AOs, and other stakeholders. Demilgechi reported that the Kyrgyz contract samples were most in demand.

Sharing information. In a survey of rural landowners, corporate farmers, lessors, and local officials, LRMDP staff found that 64 percent of corporate and individual farmers wanted to buy additional land if available. In addition, 68 percent of lessors surveyed said that they would sell their land under the right circumstances. These responses suggest that the supply of land is sufficient to meet the high demand. However, in reality, the number of land sales is small. LRMDP found that potential lessees and purchasers of agricultural land often

did not know about available land. After trying to disseminate information about market prices set through LRF auctions through the demilgechi network, project staff brought AOs into the effort. Demilgechi and AOs collaborated to gather information about all available land in an AO and the government made that information publicly available at a central location within the community. Demilgechi also made clear that they were available to help sellers and purchasers negotiate reasonable contracts that led to a successful sale.

Plot consolidation. Through research, LRMDP staff found that 79 percent of individual and corporate farmers claim to need additional land for production. Given the small parcel size and

the ways size limits investment, the project studied options and mechanisms for consolidating fragmented land parcels, including establishing a state-sponsored program that promotes increased parcel size through long-term leases and arranging the simultaneous sale of multiple parcels.

Project staff envision demilgechi could facilitate the consolidation of land plots, either through lease or sale. By acting as intermediaries, demilgechi could stimulate the local land markets by helping to organize sale or lease agreements (i.e., finding parties wishing to exchange land plots or matching lessors with potential lessees). Such efforts would have the dual benefit of both increasing activity in the local land market and producing larger land plots and increased land values.



LRMDP / DMITRY GUIDKOV

Demilgechi share experiences and knowledge during an annual meeting of Ayl Demilgesi, their newly formed association.

CHAPTER THREE

HELPING FARMERS UNDERSTAND THEIR RIGHTS

RESULTS ACHIEVED

- 122 demilgechi (rural activists) trained and working in 122 rural communities
- 154 information corners set up
- 131,520 citizens assisted by demilgechi
 - 23,927 (Year 1)
 - 45,892 (Year 2)
 - 61,701 (Year 3)
- 54,832 problems solved by demilgechi
 - 14,895 (Year 1)
 - 16,888 (Year 2)
 - 23,049 (Year 3)
- Four NGOs strengthened:
 - Aiyl Demilgesi
 - Urban Development Association
 - Association of Kyrgyz Appraisers
 - Association of Agribusinessmen

Under several earlier projects, USAID had helped rural residents exercise their land-related rights by training local activists, or demilgechi, to mobilize people in their villages to identify and solve land-related problems. Under LRMDP, USAID strengthened the demilgechi program by expanding the number of local activists to 122 and thereby decreasing the deficit of well-informed land specialists in villages. These newly trained demilgechi were instrumental in providing advice to local residents, and they also furthered important project work by helping local governments prepare their strategic plans for LRF land and for resolving local land disputes.

Seeing the need for a more formal structure, the demilgechi created their own association, Aiyl Demilgesi. They are currently working towards self-financing and plan to bid on projects from

other donors. Should Parliament implement project-supported legislative changes, the demilgechi's skills as local land specialists leave them well placed to help local farmers benefit from more robust rural land markets and to earn additional income themselves as brokers of land transactions

In addition to their work with the demilgechi, project staff worked to improve the government and public's understanding of land-related issues. For example, they organized public hearings, bringing together residents and local officials in all of the aiyl okmotus in which the project worked. Through extensive training, LRMDP staff also helped government officials and farmers better understand land-related legislation and good land management practices. They also organized a public information campaign. For example, the project team broadcast informational

A demilgechi from Aiyl Demilgesi registers participants for the auction of LRF land leases in Ak-Dobo AO, Ysyk-Kol Oblast.

LRMDP / GULIZAT NAMATBEKOVA



videos on TV, supported production of weekly radio and TV programs, and encouraged coverage of project events by newspapers and electronic media.

STRENGTHENING AN ACTIVIST NETWORK

To ensure the new demilgechi, who are not certified lawyers, provided quality services, LRMDP staff trained them in relevant issues. Most demilgechi held other jobs, such as teaching in local schools, serving as directors of NGOs, managing farms, and consulting for other donor projects. During the process of developing strategic plans for AOs, demilgechi provided crucial assistance to local officials, many of whom were confronting proper LRF management for the first time. The demilgechi also provided a critical service by keeping local communities informed of land-related policy changes and by actively solving land-related disputes.

Creating Aiyl Demilgesi. The activists themselves took the initiative to pursue independence from the project and achieve a greater degree of sustainability. At the group's general assembly in January 2006, 49 members proposed creating the NGO Aiyl Demilgesi to formalize their structure. The new group officially registered two months later. Aiyl Demilgesi was set up as a membership-based organization for demilgechi. Its mission is to support the development of civil society and the rule of law in the Kyrgyz Republic and to improve citizens' livelihoods by solving their legal and socioeconomic problems. Among the methods the demilgechi have defined to achieve this mission are offering consulting services as well as opening a dialogue between various stakeholders to discuss and redress local problems.

During Year 2, LRMDP hired the Business Intellect Group

(BIG), a business development consultancy created through USAID's BEI project, to analyze Aiyl Demilgesi's prospects to support itself without donor assistance. BIG's analysis cast doubt on this prospect in the medium term, primarily because Aiyl Demilgesi's client base is composed of rural residents who cannot pay much, if at all, for legal consulting services. BIG recommended that the NGO continue to seek donor funding. Nonetheless, Aiyl Demilgesi decided to plan for a progressive decrease in donor assistance over time. Together with BIG, it developed a detailed business strategy for the 2007–2012 period. The elements of the strategic plan include:

- Establishing Aiyl Demilgesi as a legally registered local organization;
- Achieving institutional and financial sustainability; and
- Developing an advocacy role to provide input on land legislation and land reform policies.

Part of the strategy also included a marketing plan that assesses the services Aiyl Demilgesi can provide, analyzes its competitors, and sets out the elements of a marketing strategy and budget. Through this strategy, Aiyl Demilgesi developed a Code of Demilgechi, or code of

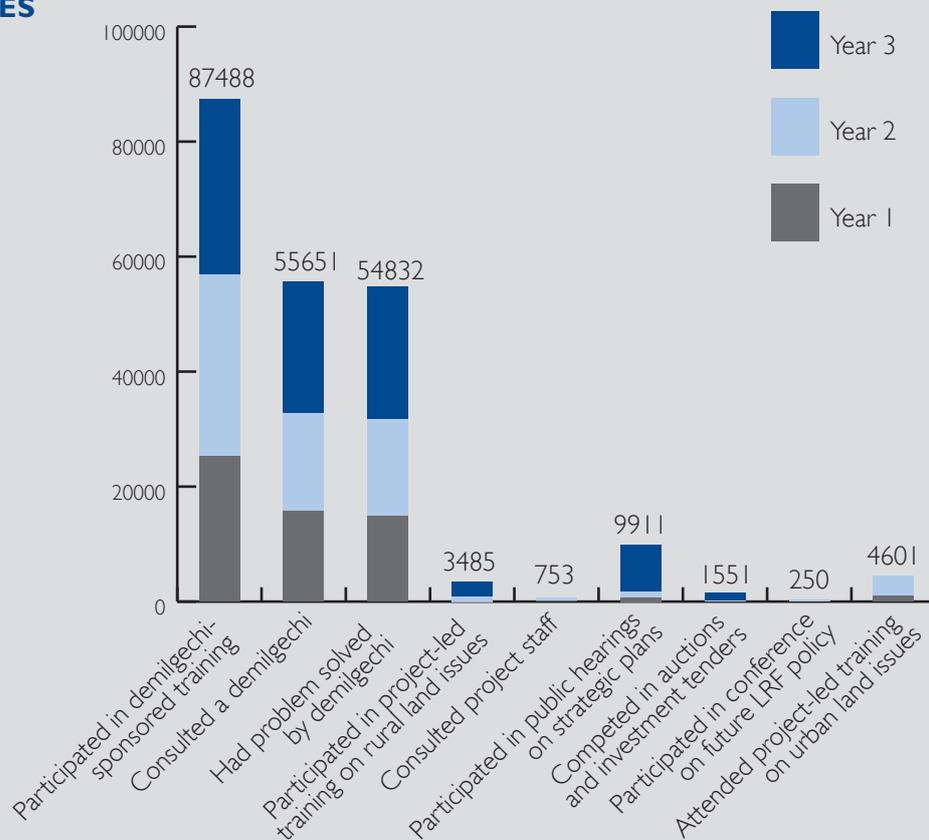
Ainura Madraimova, executive director of the NGO Aiyl Demilgesi, gives an interview to the local press about the organization's annual meeting.

LRMDF / DIMITRY GUDKOV



PROJECT BENEFICIARIES BY TYPE OF ACTIVITY

TOTAL = 218,522



conduct, which describes eligibility requirements for becoming a demilgechi, their work principles, and corporate work standards, including standards to be maintained when providing client service.

Assisting clients. Over the course of the project, LRMDP staff trained 73 new demilgechi, expanding their network by 57 percent to 122 activists. By Year 3, the impact of this expansion can

be seen in the 55 percent increase in problems solved by demilgechi in all oblasts (as compared to Year 1 figures). Over the course of the project, demilgechi were instrumental in resolving problems for almost 55,000 citizens. They provided them with a range of assistance, including helping prepare various documents, such as contracts that were previously not written or registered with Gosregister. LRMDP's compilation of model contracts made the

demilgechis' work much easier and ensured they had access to the correct forms. Demilgechi also helped prepare documents related to obtaining a land share, leasing or purchasing a plot, obtaining a loan, granting power of attorney, claiming or registering an inheritance, and paying rent. In Year 3, demilgechi assistance preparing these documents more than doubled.

Demilgechi also helped clients navigate the numerous forms and regulations to correctly pay taxes and fees or obtain social security cards. Demilgechi also identified or clarified the borders of land plots, particularly when conflicts arose because the dimensions on the title certificates did not

match the dimensions on the ground.

Regional differences in demilgechi activity. A review of the results reveals regional differences in the types of problems solved and the demilgechis' effectiveness. This difference is primarily due to differences in the sizes of land shares allocated per person. For example, in the south, problems arose when dividing land plots between family members in inheritance proceedings because the size of the land plots was very small. In addition, demilgechi in many southern villages helped organize servitudes (access rights to land held by people without any other use rights to that land). In the south, land shares were



LRMDP / ALMAZ TOKTOMAMETOV

Residents of Osh Oblast participate in a roundtable conducted by a demilgechi.

SUCCESS STORY

Low-income families receive land

Legal awareness improves livelihoods for rural dwellers



LRMDP / AINURA MADRAIMOVA

Nasyikat Arykshaeva, a project-trained rural activist, in her working room. The Land Reform and Market Development Project supports a network of 122 demilgechi, who like Nasyikat provide legal advice in their offices and travel around their area to solve land-related problems.

Thirty-five families in Ivanovka AO were able to enjoy their right to LRF land on favorable terms through direct allocation.

Nasyikat Arykshaeva is a demilgechi from Ivanovka AO, Ysyk-Ata Rayon. In this position, she helps rural citizens understand land legislation and protect their rights to land.

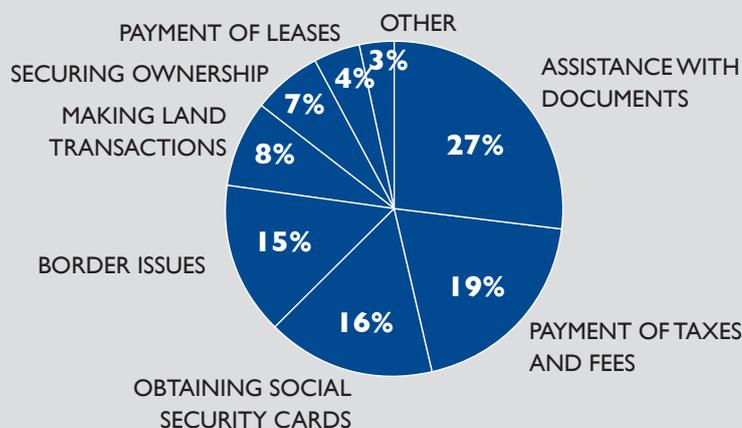
According to Kyrgyz law, poor families have the right to receive land directly from the state-owned Land Redistribution Fund (LRF) for lease. However, before the start of Ivanovka's demilgechi program, poor families did not know about this right and therefore could not benefit from it. After Nasyikat spent time explaining to both ordinary villagers and local officials these rights of poor families, the Ivanovka Aiyi Kenesh (local council) allocated 97.5 hectares of LRF land to these families.

However, it quickly became clear that the best part of these 97 hectares had already been leased by officials to other people. Their reaction was quick and unpleasant. The current lessees threatened the demilgechi, pushing her to stop her activities, and the kenesh deputies accused Nasyikat before the public prosecutor of inciting people to demonstrate.

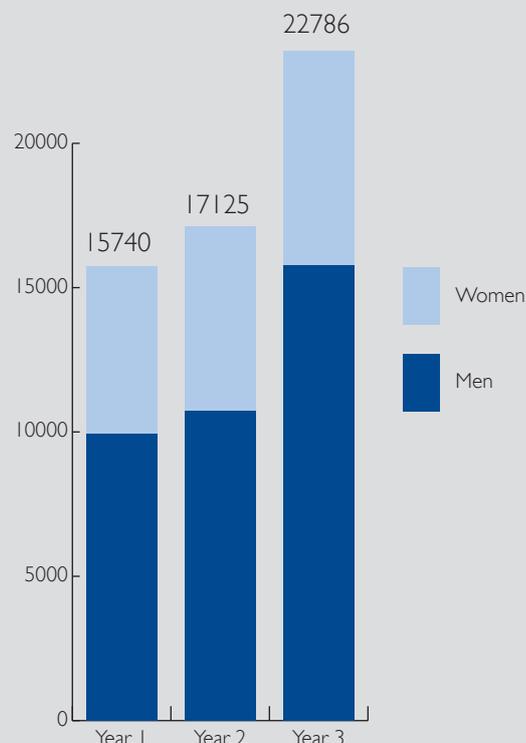
In the face of these events, Nasyikat turned to USAID's Land Reform and Market Development Project for support. Project specialists visited Ivanovka several times and spoke with the head of the AO, the deputy head of the Ysyk-Ata Rayon Gosregister office, and the kenesh deputies. At these meetings, they discussed the law guaranteeing the right of the poor to LRF land (described in project-developed brochures) and explained the legal regulations providing for the allocation of land to the poor and demonstrated that Nasyikat Arykshaeva was acting in accordance with that law.

After these conversations, the local authorities recognized that Nasyikat's activities were legal and that she was supported by the local population and an international donor program. They stopped the prosecution procedures launched against her. In the end, thanks to Nasyikat's efforts, 35 poor families of Ivanovka AO were able to receive LRF land on favorable terms for the very first time through direct allocation.

RESULTS OF DEMILGECHI ACTIVITIES



TYPE OF ASSISTANCE PROVIDED BY DEMILGECHI



BENEFICIARIES OF DEMILGECHI CONSULTATIONS, BY GENDER

often allocated without taking into account the need for general access to roads and irrigation canals. Because gaining access to a road usually means going through numerous small land plots, creating servitudes is difficult and requires working with numerous farmers, each with different demands.

In Year 3, in Jalal-Abat and Osh oblasts, project staff saw a sharp increase in the number of problems resolved due to the increase in demilgechi in each oblast from 10 to 33 and from 9 to 31, respectively. On the other hand, in Batken Oblast, the demilgechi were more productive in Year 1 than in later years due to their

work that year on a campaign about the need to obtain social security cards. In Ysyk-Kol Oblast in Year 2, the demilgechi were particularly effective due to their focus on clarifying the borders of land owned by some 2,000 farmers in Tup AO. In a major accomplishment, they helped all 2,000 farmers register their land titles, bringing them the benefits of undisputed land ownership.

Demilgechi paid special attention to women's access to land. For example, in the south, residents never allotted a land share to a daughter who is getting married or to a divorcing woman. To reverse this situation, demilgechi in

Erkingul Mambetakunova, a journalist for the TV program “Your Rights to Land,” interviews a citizen. This program was the second most popular TV program in 2007.

LRMDP / DIMITRY GUDKOV



the region devoted training sessions and roundtables to discussions of women’s rights to land.

Given that demilgechi primarily help local residents with document preparation, taxation, and social security cards, LRMDP staff believe they could be a valuable resource as local facilitators under any consolidation programs that might be launched or as local brokers disseminating information about land available for sale. In addition, with the end to restrictions on agricultural land ownership, the demilgechis’ role matching sellers and buyers could help the more entrepreneurially minded activists earn money as brokers and continue their role as local land experts.

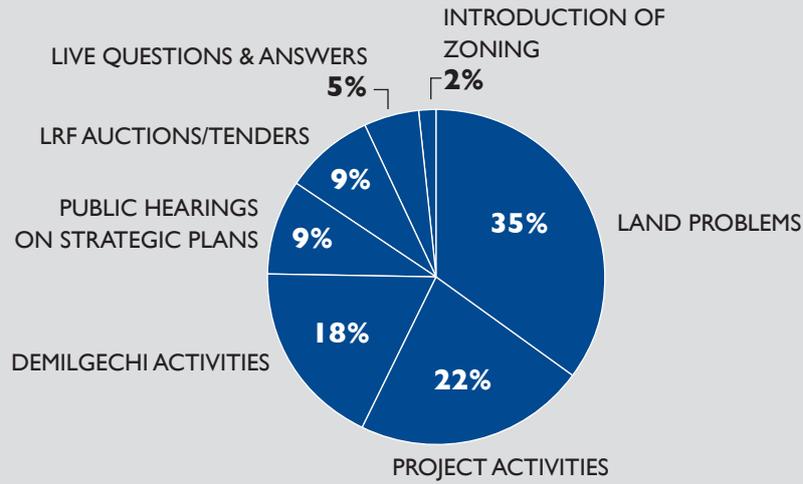
Final demilgechi conference. Aiyl Demilgesi held its final conference (under project auspices) in May 2008, when it reviewed the organization’s work over the past

year and decided which of the new demilgechi to admit into the organization. Of the 73 new demilgechi hired at the end of Year 2, 31 were inducted into the organization, bringing its total membership to 83. Because the association chose the best performing and most dedicated demilgechi, the association now has a very strong network of committed activists and is poised to continue its important work independently.

EDUCATING THE PUBLIC THROUGH THE MEDIA

To reach members of the public without access to project resources, demilgechi, or other sources of information about land rights, LRMDP staff conducted an extensive education campaign through the television and radio. The project produced an ongoing TV series — “Your Rights to Land” — in the Kyrgyz language, which reported

SUBJECTS COVERED IN BROADCAST MEDIA PROGRAMS



on demilgechi activities. During Year 2, this program was named the second-most watched TV program in the country. The TV program was accompanied by a radio series, “Land and People,” which covered project activities, demilgechi activities, and information about solutions to common land problems. In addition, the project team

produced two videos as part of public awareness campaigns on zoning laws (Year 2) and on strategic plans (Year 3), which were broadcast in Kyrgyz and Russian and repeated several times a day for several weeks. In addition, print media covered project activities extensively related to auctions and other land issues of interest to farmers.



URMDF / DMITRY GUDKOV

Construction workers building a supermarket in Tokmok City in full compliance with the city's zoning requirements.

CHAPTER FOUR

STIMULATING INVESTMENT IN URBAN LAND

RESULTS ACHIEVED

- Average increase in investment in land for cities that adopted zoning:
 - 132% (Year 1)
 - 244% (Year 2)
 - 67% (Year 3)
- 75 people (including prosecutors and judges) trained in zoning regulations
- 13 seminars on zoning conducted in non-pilot cities
- 6 appraisal standards approved
- 2 conferences conducted on appraisal standards
- 4 courses on appraisal developed and second edition of appraisal textbook published

Under the KLR project, USAID supported the adoption of zoning regulations and mapping at the municipal level in 11 pilot cities. However, KLR's work was not yet seen as sustainable because zoning was not recognized in national legislation as a primary tool for urban land-use planning and because the capital city of Bishkek had not yet reached consensus on its own zoning rules.

Under LRMDP, USAID continued KLR's work by solidifying the use of zoning regulations and by introducing real estate appraisal standards and practices. LRMDP sought to establish a more predictable regulatory environment — and thus encourage investment — by supporting sustainable implementation of zoning regulations and developing local capacity to modify these regulations as needed in the future. In the end, this LRMDP work on

zoning produced mixed results: following the introduction of zoning rules, the number of land transactions increased but later declined when less and less land was available to be sold. However, the project team was able to help Kyrgyzstan adopt and universally apply national appraisal standards and to expand training for independent appraisal specialists.

STRENGTHENING ZONING REGULATIONS

Zoning rules stimulate investment in urban land because they assign certain uses to land and designate the type of buildings permitted. For the public, they make transparent the criteria officials will use when deciding whether to grant construction permits. For investors, they help guide strategic investment and ensure that structures do not disturb those nearby, which could reduce the success of the investment.

Residents of Batken City ask questions about legal zoning requirements.

LRMDP / JARKYN MAMBETOVA



Due to the success KLR's pilot areas have had with their "Rules of Construction and Land Use," additional towns wanted to introduce similar rules. To work with KLR's pilot towns as well as new municipalities, LRMDP staff joined forces with a local organization — Urban Development Association (UDA) — which ensured that experts in zoning regulations would be available to assist interested towns beyond the life of the project.

Building local expertise. In Years 1 and 2, LRMDP and UDA staff collaborated to update the zoning rules in nine of the KLR towns, drafted rules for two additional towns, and wrote rules for the two new settlements. Supported by the project, UDA conducted all technical work in developing the rules and conducting the mapping. Once the rules were developed, LRMDP sponsored and organized public hearings

where officials introduced the rules to local residents. These public hearings were a change from previous urban planning efforts, whose details had been kept secret by officials. After seeing LRMDP's zoning maps and reading the zoning rules, local residents began to see how officials' development plans would impact the location of local businesses. The LRMDP-sponsored hearings promoted transparency and accountability for local government officials, who found they had to explain and defend their zoning rules to the public.

Through its work with the project, UDA has become recognized for its expertise in helping local governments develop zoning rules. UDA has since begun work on zoning rules in Kant town (Ysyk-Ata Rayon, Chuy Oblast), which is paying UDA for its services from its own budget. Several other towns have also

contacted UDA, but they have not yet been able to raise the necessary funds. This strong interest in UDA's zoning work demonstrates that the project has helped develop sustainable expertise in zoning rules.

Legislative work. During Year 1, LRMDP staff successfully advocated for the adoption of zoning-related amendments to the Land Code, which Parliament and the president made law in January 2006. These amendments mandated the adoption of the project-supported zoning rules in all cities and settlements of the country. However, the staffing changes that followed the ouster of President

Akaev undid these gains in a few months. At that time, the new officials — unaware of the recent zoning-related changes — passed a regulation on issuing construction licenses that did not make adherence to zoning rules part of the license requirement. Despite this setback, project staff were able to work with the Investment Council, which had been tasked with streamlining construction licensing processes, to include in its 2008 regulation on construction licenses the requirement that applicants submit documents certifying their adherence to zoning rules. The importance of this regulation is that it requires all local governments to adopt and apply zoning rules.



LRMDP / JARKYN MAMBETOVA

Residents of Jalal-Abat City read information about new zoning regulations.

In Chuy village, Chuy Oblast, new zoning regulations are explained during a public hearing.



LRMDP

In addition, as the result of project advocacy, the GOK's 2008 Plan of Priority Actions for the Development of the Construction Sector includes zoning rules. These rules will be based on those developed by KLR, and all towns and settlements will have to follow them.

Benefits of zoning rules. Zoning rules contribute to local democracy by making official decisions on local development more transparent. In addition, they enable real estate investors to know where their money can be most productive. With respect to stimulating investment, the record for zoning rules in Kyrgyzstan is mixed. Immediately after the introduction of the rules, investment increased dramatically, such as in Jalal-Abat (350 percent increase between 2005 and 2006) or in Cholpon-Ata, where the increase was a staggering 991 percent between 2005 and 2007.

However, it appears that these increases are largely due to the sale of municipal land in the primary real estate market. This market remains active where towns still own reserve land. In towns with no reserve land left, the increase in investment reverses itself in 2007 and 2008, when 10 percent dips are recorded. In small towns with few land reserves, investment activity is much lower. Although the primary urban land market in these towns is now declining as land is no longer available, there are signs that the secondary real estate market is working. For example, the World Bank reported that \$1 billion in urban land transactions took place in Kyrgyzstan in 2007. However, the lack of reliable data available from Gosregister makes it impossible for the project to properly analyze the situation.

Despite the short-term impact of zoning rules on investment,

APPROVED NATIONAL APPRAISAL STANDARDS

- General Concepts and Principles of Appraisal
- Professional Ethics
- Real Estate Appraisal
- Equipment and Machine Appraisal
- Business Appraisal
- Requirements for Appraisal Report Development

Government Decree No. 217, April 3, 2006

project staff have received positive feedback about them from counterparts. For example, local officials reported that the rules helped them to resolve conflicts quickly. However, local and oblast officials still need training in how to craft and apply the zoning rules. UDA's analysis showed that, in the KLR pilot locales, zoning rules need to be updated. In some cases, they may need to be reintroduced, as UDA found cases where rules were approved by local councils but not registered with the oblast justice departments. Such regulations have no legal force. In addition, UDA found that some new mayors (in Kara-Balta, for example) and oblast justice departments who had not had the benefit of project training, did not understand zoning rules and therefore failed to properly implement them. These findings point to the efficacy of LRMDP's earlier training of local government officials to help them understand the purpose and scope of zoning regulations.

INTRODUCING APPRAISAL STANDARDS

Without uniform appraisal standards recognized by both the public and private sectors, the value of real-estate assets would be open to dispute and possible corruption. Continuing the

accomplishments achieved by USAID's KLR project in drafting appraisal standards, LRMDP worked with the GOK to enact six national appraisal standards in April 2006 (Decree No. 217). In addition, project staff helped the Committee on State Property draft a seventh standard, the Appraisal of Nonmaterial Assets and Intellectual Property. These new national standards set parameters for quality in appraisals and made Kyrgyzstan a leader among CIS countries in appraisal.

However, to be effective, the new standards need to be applied by independent professionals, which Kyrgyzstan lacks. To address this situation, project staff organized extensive training sessions for appraisers to further their professional development. In addition, the LRMDP team also prepared — in cooperation with the Association of Kyrgyz Appraisers — the second edition of the textbook, *Real Estate Appraisal*, which covers theoretical issues of appraisal and includes case studies that apply the theory. The textbook is to be used by practicing appraisers in two-week training seminars and by university students over the course of a semester. It has been recommended by the Ministry of Education for university students studying economics.



LENDP / DMITRY GUDKOV

A farmer harvests wheat in Ivanovka, AO.

CHAPTER FIVE

OPTIONS FOR FUTURE ACTIONS

In September 2008, LRM-DP — in cooperation with the GOK — held a national conference in Bishkek to present the results of a land market research study on the last 10 years in land reform and the factors affecting future development of the land market. This conference brought together key members of the national government — including the deputy prime minister, heads

of local governments, project partners, USAID, and other donors — to make recommendations for future land policy based on the results of the study. All present agreed to the final recommendations, which are listed on the next page. In his closing remarks, Deputy Prime Minister Iskender Aidaraliev stressed the importance of the land market to Kyrgyzstan's future economic development.

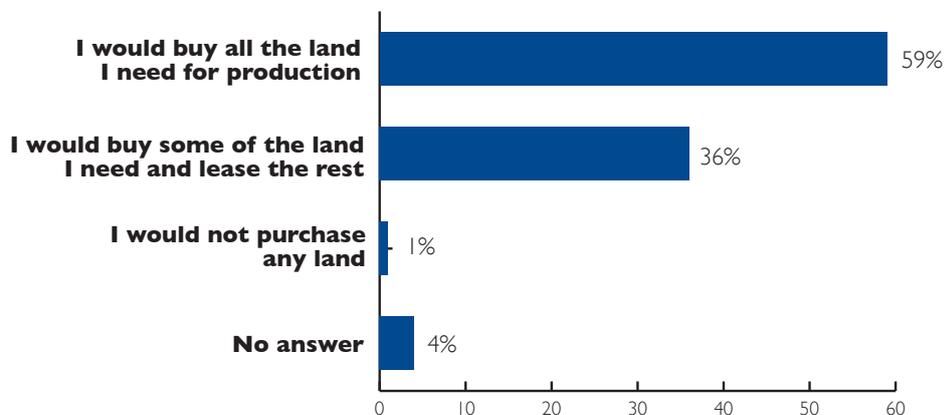
CASE STUDY ON “HIDDEN” LAND

Novopalovka Aiyl Okmotu, Chuy Oblast

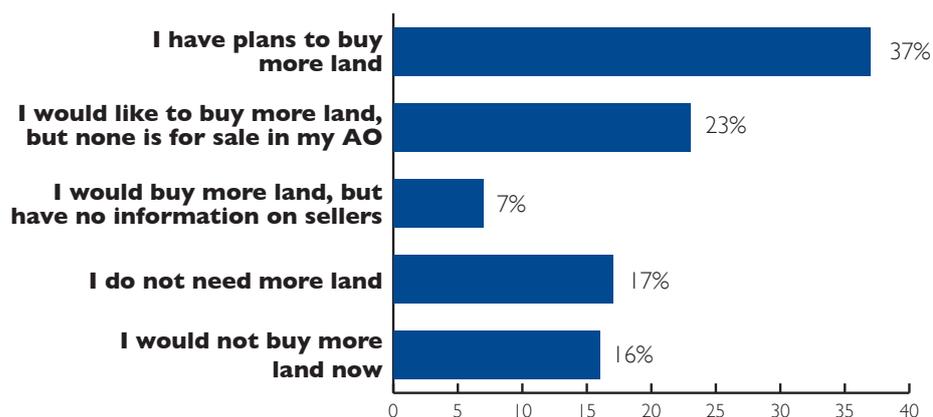
At the request of citizens in Novopalovka AO, Sokuluk Rayon, Chuy Oblast, the Government of Kyrgyzstan established a special commission to investigate local land-use practices. In the course of its work, the commission discovered about 900 hectares of land that was not accounted for. For many years, it had been used illegally by an association of farms called “Krasnaya Zarya.” This fact was discovered after a conflict between the association's members and the AO head. The members wanted the undistributed land to be distributed to them as land shares, and the AO head wanted the land catalogued and marked for future decision on its use. When a list was compiled of potential recipients of shares in the disputed land, the commission discovered citizens on the list who were not entitled to a land share as well as names that were listed twice (to obtain a double share). Because of the attention raised by this dispute, the government tasked the commission to suggest solutions in similar cases.

FINDINGS OF THE LAND MARKET STUDY

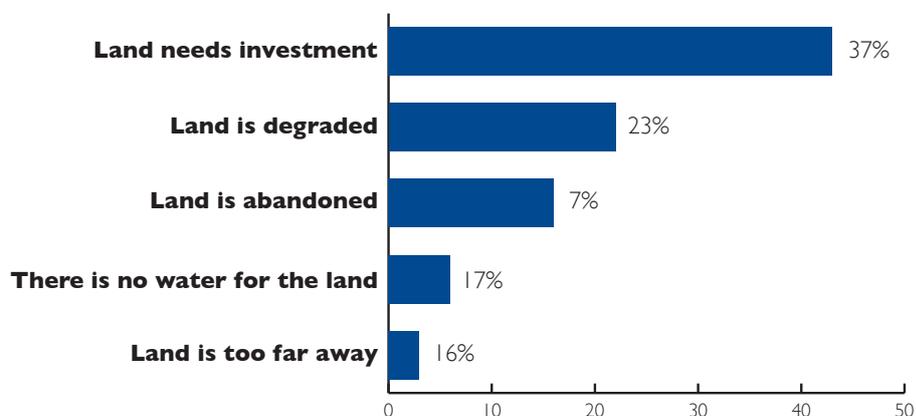
WHAT CORPORATE FARMERS WOULD DO IF ALLOWED BY LAW TO PURCHASE LAND:



PLANS OF INDIVIDUAL FARMERS WITH RESPECT TO ACQUIRING LAND:



FARMERS' REASONS FOR NOT USING LAND:



RECOMMENDATIONS

LRF LAND

Land Transformation

- Place a moratorium, in effect for a set number of years, on changing the categorization of arable land in order to stop the loss of such land.
- Develop a three-year program under which the government considers applications from all AOs to reclassify the worst LRF land (as part of the implementation of their LRF strategic plans).

Degraded Land

- Establish a state program to attract investment in degraded agricultural land by:
 - Creating a business environment attractive to foreign investors; and
 - Offering financial incentives to those willing to invest in improving LRF land.
- Continue project's pilot efforts to support AOs use of investment tenders.

Land with Unclear Status

- Identify the legal status and ownership of all LRF land by inventorying all agricultural lands under AO control.

PRIVATE LAND

Legal Issues

- Lift the legal restrictions on who can own and lease agricultural land and enable legal entities and urban residents of the Kyrgyz Republic to own agricultural land.
- Consider allowing municipal ownership of agricultural land.
- Grant foreigners the right to lease private agricultural land.
- To minimize local fear of outsiders, conduct a campaign in rural areas to inform people about the potential benefits of attracting land investors from outside the community.

Land Transactions

- Make information available about the sale and lease of agricultural land in the community through the AO and other local entities.
- Grant limited registration rights to the AO — for instance, as authorized Gosregister agents — and simplify the registration procedures for medium- and long-term lease agreements.
- Create a mechanism that facilitates cooperation between Gosregister and AOs in recording information about local land transactions.

Consolidation of Land

- Develop a national program to consolidate fragmented agricultural land, test it in several pilot AOs, and then implement it more broadly.
- Conduct a campaign to inform people of the possible benefits of land consolidation through market mechanisms.
- Institute financial incentives for farmer entrepreneurs willing to help consolidate land.

Degraded and Abandoned Private Land

- Offer financial incentives to private owners that undertake long-term investments in agricultural land.
- Simplify the procedures followed when the government assumes control of abandoned land.

Land Tax

- Increase the land tax to stimulate rural land markets and efficient land use.



LRMDP

A Tajik farmer in Khatlon Oblast takes a break from his farm work. Tajikistan's economy is dominated by the cultivation of cotton.

CHAPTER SIX

PROMOTING LEGISLATIVE REFORM

RESULTS ACHIEVED

- Enactment of key legislation
 - Amendments to Land Code (January 2008)
 - Law on Mortgage (March 2008)
 - Law on State Registration of Immovable Property and Rights Thereto (March 2008)
 - Law on Land Valuation (drafted and awaiting final government approval)
 - Regulation on Conveying Land Use Rights (being drafted and awaiting final government approval)

Since independence from the Soviet Union, land reform in Tajikistan has proceeded cautiously, complicated by two primary factors. First, the state owns all land and, as a result, plays a large role in managing land relations and determining the most effective use of land. To farm or otherwise use land, citizens receive use rights, guaranteed by a land-use certificate. These use rights are perpetual and formerly could not be transferred except as part of an inheritance.

Second, the dominant role of cotton in Tajikistan's economy makes it an important factor shaping many agricultural and land-use policies. Cotton is grown on 53 percent of arable land, and cotton exports make up more than 75 percent of the country's agricultural exports, earning \$930 million between 2000 and 2006. Given the significant earnings from cotton,

since Soviet times state policies have been directed to maximize cotton cultivation. Until recently, Tajikistan's Land Code gave the state the right to take possession of any land that was being used "irrationally," which gave it the power to compel farmers to grow cotton according to production targets. However, such production was not always in the farmers' interest since cotton yields have been dropping since 1991 (see chart, next page).

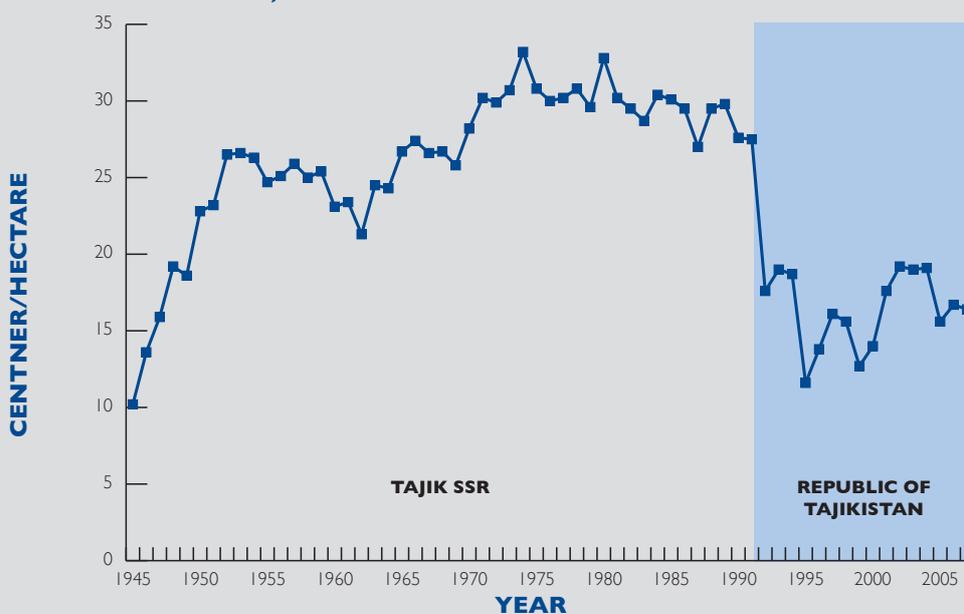
These insecure and nontransferable land rights have greatly hindered the economic growth and development necessary to reduce Tajikistan's levels of poverty. This situation has been exacerbated by the significant debt carried by many farmers, especially those who grow cotton. In 1996, following Presidential Decree No. 522, Tajikistan's state-owned and collective farms began to be broken up into smaller *dehkan* (peas-

ant) farms, and use rights were granted to the people who had been part of the original farm. As part of the restructuring process, the debt of the former state or collective farm was divided proportionally among the resulting dehkan farms. Consequently, the shareholders in these new farms began operations under a burden of debt. On top of this debt, farmers were obliged to borrow to pay for seeds, fertilizer, equipment fuel, and other farming inputs. They sought financing from so-called “investors,” who monopolized certain zones as the sole purveyors of local credit. As collateral, farmers pledged their crops. But with falling cotton yields, farmers have accumulated

levels of debt they have little hope of repaying. Banks will not lend to cotton farmers, because they judge their operations as too risky due to their existing debt and low profitability. In the end, many farmers have had little option but to seek more loans from investors and have been reduced to indentured servitude.

Building on the groundwork laid by previous USAID projects, LRMDP provided extensive assistance to the GOT in drafting land reform legislation. Project staff focused on developing market-oriented land reform legislation and played a key role in setting up a working group to coordinate both government and donor input into

COTTON YIELDS, 1945–2007



* A centner is equal to 100 kilograms or 220.46 pounds.

Source: Don Van Atta, “The Failure of Land Reform in Tajikistan,” presentation, 13th Annual World Convention of the Association for the Study of Nationalities, Columbia University, New York, April 11, 2008.



Tohiri Abdujabbor, a journalist for the newspaper “Millat” reads project literature at an event celebrating the passage of amendments to the land code. In partnership with the government and a USAID-supported working group, LRMDP drafted key amendments to Tajikistan’s land code, setting the framework for a land market in the country.

LRMDP

OBJECTIVES OF THE WORKING GROUP ON STRUCTURAL FRAMEWORKS AND LAND REFORMS

- Improve land tenure security
- Create a land market, with land-use certificates as collateral
- Establish a unified property registration system

the drafting process. The project’s main legislative achievement was the passage of amendments to the Land Code, which improved protections for land-use rights and entitled citizens to sell those rights for the very first time. The project also contributed to the adoption of a new law on mortgage, a new property registration law, and a new law on valuation. Efforts to modernize Tajikistan’s land legislation were helped by President Emomali Rahmon’s desire to institute mortgages for land-use rights as a way to offer indebted farmers new financing options.

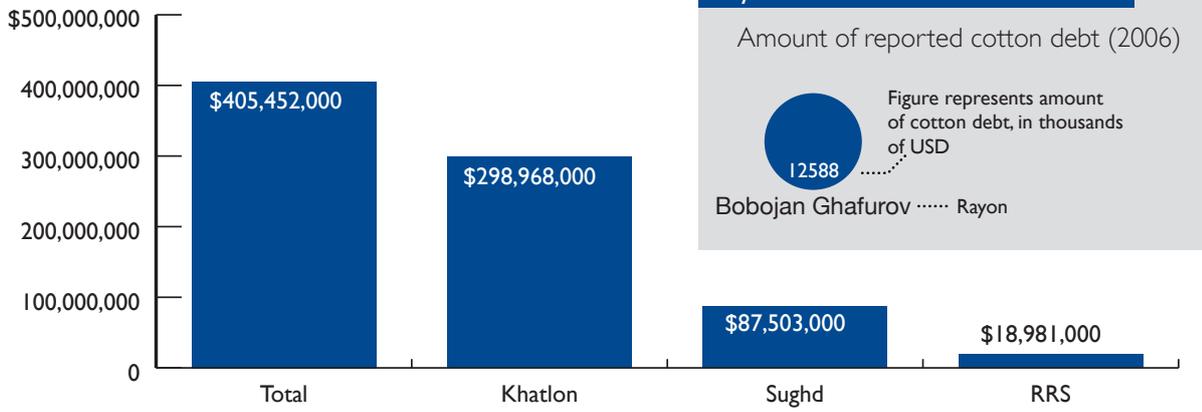
SUPPORTING THE LAND REFORM WORKING GROUP

LRMDP originally planned to amend the relevant laws to provide for a transparent process of land distribution, strengthen regulations for distribution of land-use certificates, amend legislation to reduce the power of

the GOT to take control of land, and allow land-use rights to be sold. However, the project team faced challenges in addressing these objectives in the comprehensive manner required. Initially, they worked with the Ministry of Justice and the State Land Committee to draft amendments but made little progress. After project lobbying to the Donor Coordination Council (DCC), the DCC formally asked that the president of Tajikistan establish a high-level working group to oversee the development of new land legislation, and he agreed to do so. The DCC request (initiated by project staff) represented the first time donors had taken a unified stance on the steps the GOT needed to take on land reform.

Established in mid-2006, the Working Group on Structural Frameworks and Land Reforms included members from the relevant government institu-

Total amount of cotton debt by region, USD



A Tajik farmer gathers hay in preparation for the winter. Farmers cite the lack of sufficient water as one of the most pressing issues they face. Deteriorating irrigation infrastructure has reduced the fertility of farmland throughout the country.

LRMDP



tions and main international donors. Its mandate was to review all land reform legislation and act as the key decision-making forum for donors and GOT officials on land reform issues. LRMDP took the lead role within the group and provided technical assistance in drafting legislative amendments. The group first focused on amending the Land Code because there could be little progress on LRMDP's main land reform objectives until the impediments in the Land Code and Civil Code, which governed lower level laws, were adequately addressed.

After the first package of legislative amendments had passed, the Working Group's success in promoting land reform led to an expansion of its role. Once the laws came into force in early 2008, the Working Group came back together to oversee

the development of a national land strategy, farm restructuring policy, and water policy. LRMDP continued to support the Working Group as it prepared implementing regulations to support the newly passed legislation, in particular a regulation on conveying land-use rights.

IMPROVING THE SECURITY OF LAND RIGHTS

LRMDP's most significant achievement in Tajikistan was the passage of amendments to the Land Code, which entered into force in January 2008. These amendments represent an important shift in how land-use rights are perceived, since they enable holders to legally transfer those rights for the first time. They strengthen the security of land-use rights by ending the government's power to confiscate land for "irrational use"; create a

market for buying, selling, and mortgaging land-use rights; and establish a unified registration system as the official repository for all land, immovable property, and associated use rights.

As a result of the efforts of the Working Group, local governments can no longer force farmers to grow the types and quantities of crops they want. Improving the security of citizens' land-use rights is also a prerequisite for allowing them to be pledged as collateral for mortgages. The introduction of mortgages for land-use rights offers indebted farmers a new option to secure loans within the formal banking sector rather than the unregulated lending offered by the investors. While an existing land market and fully transferrable property are prerequisites for such mortgages, LRMDP has remained cautious in drafting the necessary regulations given the potential for further abuse of farmers' rights and the need for robust legal safeguards.

Australia study tour. Due to the sensitivity of these proposed changes and their potential impact, project staff spent significant time with Working Group members and government officials to introduce them to the main concepts behind the amendments. To aid their understanding, LRMDP organized a study tour to Canberra, Australia, to allow participants to see how a well-functioning land market and registration system supports economic development and investment.

In Canberra, all land within the capital territory is owned by the state, and use rights (in the form of 99-year leases) are allocated for both urban and rural land. Despite state ownership, land and mortgage markets are active in Canberra because the necessary conditions — which include land tenure security, clear expropriation standards, minimal government interference in market mechanisms, and a unified registration system — have all been established. In Australia, Tajikistani officials, including key parliamentary committee chairs who helped adopt the amendments on their return, saw how markets can function effectively within the context of state ownership of land.

Implementing regulations. During parliamentary consideration of the amendments to the Land Code, some newspapers raised concerns that they would allow a few wealthy people to accumulate significant amounts of land. Given the suffering of many farmers trapped in perpetual indebtedness at the hands of investors, the donor community, too, was concerned about the potential growth of a new land-owning class. Given that much depended on how the Land Code was implemented, LRMDP provided further assistance to the Working Group to draft a Regulation on Conveying the Right to Use a Land Plot that ensured satisfactory protections for farmers.

CREATING MORTGAGE OPTIONS

In addition to introducing the ability to pledge land-use

rights as collateral for mortgages through the Land Code, LRMDP staff also helped draft a new Law on Mortgage by hosting a 2007 retreat to finalize the text and by providing input on valuation issues. The new law went into effect in March 2008. For the most part, the final version supports market development in Tajikistan with clearly defined rules, sensible mortgage concepts, and the authorization of non-judicial foreclosure. It also ensures the security of the mortgage agreement in that this document comes into force upon proper registration in the unified registry. This protection is important as many farmers who have concluded contracts with creditors have suffered due to poorly understood, missing, or falsified contract terms.

INSTITUTING A UNIFIED PROPERTY REGISTRY

After a request from the State Advisor to the President to the DCC, LRMDP staff evaluated the institutional and financial resources needed to create a unified registration system (URS) in Tajikistan for the registration of immovable property, land-use rights, and other rights and encumbrances. LRMDP analyzed the operations of the four institutions responsible for registration activities — the Agency for Land Management, Geodesy, and Cartography (ALMGC); the Mezhrayon Bureau of Technical Inventory; the Ministry of Justice; and the local rayon/city administration — and concluded that the GOT would need to make the difficult political decision of where to house

the registry. LRMDP itself did not advocate where the registry should be housed but merely advocated for the establishment of a URS. To create the system, including transferring all necessary documents from the other three institutions to the home of the URS, would require \$20 million, according to project estimates. As a result, donor assistance would be needed to devise a strategy for developing the system and to support its implementation.

The project team helped draft the law to create the URS, which passed in March 2008, and in September, the GOT chose to house the registry in the ALMGC. According to the law, the URS will map and register legal rights to all state and private property in Tajikistan, including land-use rights, buildings, apartments, and mortgages. The URS will have a three-tier institutional system: the ALMGC will play a supervisory role and will set policy; the Republican Enterprise of State Registration will implement the legislation; and the local registration offices will accept and process registrations. Under the law, the GOT has until March 2009 to set up the URS.

PROMOTING MARKET-BASED PROPERTY VALUATION

Establishing standards for valuing and appraising property provides a foundation for a healthy land market. But it also ensures that government charges taxes proportionate to a property's value and properly determines the amount

that can be claimed in compensation for the loss of that property. In Tajikistan, land is usually valued according to normative prices set according to variables that include soil quality. To ensure the Law on Land Valuation included some of these fundamental concepts in the field of valuation and appraisal, the LRMDP team worked with the Working Group on Land Reform, offering techni-

cal assistance in drafting the new law.

About 92 percent of the project's recommendations were incorporated into the draft presented to the government ministries for comment. Nevertheless, it still focused primarily on setting normative values for land plots and land-use rights based on assessment work carried out by gov-

PRIMARY IMPROVEMENTS IN THE LAND CODE

TENURE SECURITY STRENGTHENED.

The amendments provide greater protection to holders of land-use rights. In particular, they limit the circumstances in which a person's land-use rights can be terminated and ensure due process when they are.

- **Article 37.** Land-use rights can no longer be withdrawn for "irrational use" or failure to pay the land tax.
- **Article 38.** Withdrawal of land-use rights shall primarily be for "state and public need," which must be demonstrated.
- **Articles 38–1, 39, 40.** Due process is ensured for all withdrawal cases; reappropriations can be disputed in court.
- **Articles 41–44.** Compensation for withdrawals is mandatory at market prices.
- **Articles 6 and 47.** Land disputes can be adjudicated by courts rather than by government.

LAND MARKET CREATED.

The amendments make land-use rights fully alienable for the first time. Now, land-use rights can be transferred through sale, gift, exchange, and mortgage, in addition to lease and inheritance. These new transactions permit the owners of land-use rights to make their asset more productive, thereby contributing to economic development.

- **Article 11.** Legal entities can now hold perpetual land-use rights.
- **Article 19.** Land-use rights can be freely conveyed, including through sale.
- **Article 27-1.** Land-use rights can be pledged as collateral for mortgages.

GOVERNMENT POWERS CLARIFIED.

The amendments regularize the powers and responsibilities of multiple levels of government. In particular, they limit how land-use rights can be terminated and ensure due process in such cases.

- **Article 6.** State bodies on land management are given clearer powers for registration and are no longer charged with adjudicating land disputes.
- **Article 7.** Local governments (hukumats) are no longer responsible for registration and can only terminate land-use rights in accordance with Article 37.
- **Article 8.** Jamoats (village governments) can no longer withdraw land-use rights.

A young cotton farmer takes shelter from the summer sun. LRMDP has helped strengthen farmers' land-use rights and assisted them in obtaining land-use certificates to formalize those rights.



LRMDP

ernment appraisers. Because the Land Code instructs the government to compensate citizens for land it reappropriates at prevailing market prices and because the Law on Mortgage refers to valuation conducted by independent appraisers, the draft Law on Land Valuation will require further improvement to bring it into line with these laws. In July 2008, LRMDP revived the draft so that the improvements could be made.

IDENTIFYING FURTHER REFORMS

Land Code. While the amendments to the Land Code represent a major step forward in improving land tenure security, some issues remain. Due to some concerns among parliamentarians, the code still contains references to the need for “rational” land use; allows use rights to agricultural land to be voided after two years of non-use; and includes a major loophole

(Article 45) that could allow the government to avoid paying compensation in confiscation cases. Furthermore, the Law on Land Use Planning, which was amended at the same time as the Land Code, conflicts with the Land Code in that it gives local governments a role in overseeing farm management.

Law on Mortgage. After learning of some initial cases of abuse, LRMDP remains concerned that the Law on Mortgage does not prohibit incorporating past debts into new mortgages. Carrying forward (or “rolling over”) old debt into new will make it much more difficult for borrowers to pay back the balance, thereby raising the risk of foreclosure and forced sale. To reduce the risk of such an action, the law could be amended to include a statement of principle against carrying debt forward, thereby clearly indicating to the courts that they should

not consider past debts when adjudicating breaches of mortgage obligations. Such a statement would provide borrowers an important safeguard and would not adversely affect lenders. Furthermore, in the case of foreclosure, the law appears to allow a mortgagee to buy the property without going to auction. This omission could allow the mortgagee to take advantage of the situation and insist on a sale price below what the property is worth.

In addition, the law properly requires that the value of the property be established by independent, professional appraisers. However, Tajikistan does not yet have such appraisers, though

some professionals have expressed interest in being trained as such. For this reason, the Ministry of Justice prepared an amendment to the law, adopted in July 2008, to allow the parties to agree on a property value among themselves. LRMDP staff remain concerned that unless large numbers of independent appraisers can be quickly trained and deployed, the mortgage market may be frustrated. In the same way that farmers are often forced to agree to unconscionable contract terms, the project foresees that the new amendment may allow lenders to undervalue property and may delay the development of an independent appraisers profession.



Farmers work in the cotton fields. Because many male farmers have migrated abroad to find work, the majority of farmers working the cotton fields are women.

LRMDP

A farmer drives his tractor. To help farmers pay for inputs like tractor fuel and fertilizer, LRMDP has worked to allow banks to offer them mortgages.



LRMDP

Implementing regulations.

LRMDP staff completed their legislative work by identifying the regulations that must be drafted to ensure successful implementation of the Land Code, Law on Mortgage, and registration law. The team also identified at least 13 articles of the Civil Code that need to be changed to avoid conflicts with the new laws. In particular, the Civil Code needs to be amended to define land-use rights as immovable property. While this important change was identified at the start of the project, making it has become imperative only now due to the adoption of the Land Code amendments.

Law on Dehkan Farms. Among LRMDP's legislative objectives was to streamline the process of restructuring dehkan farms. In part, this objective was superseded by the GOT's adoption of Decree No. 1775 (June 30,

2006), which largely replaced Decree No. 522. However, real reform requires amending the Law on Dehkan Farms (2002). The Working Group took up this task, but the lack of a clear GOT policy on the law and divergent donor opinions hindered progress. Because its focus was on the Land Code amendments, LRMDP did not take the lead in amending the Law on Dehkan Farms.

The primary issue to be addressed is the legal status of a dehkan farm. While the Law on Dehkan Farms does not make a dehkan farm a legal entity, the new Law on Mortgage allows dehkan farms to pledge their assets as collateral to obtain loans. This change directly contradicts the Civil Code, which states that only legal entities can own or pledge property. However, some courts have issued decisions that recognize dehkan farms



LRMDP

Farmers growing onions. LRMDP has promoted the “freedom to farm” so that farmers can grow any crops they want. Government Resolution No. 111 protects this right, but it is often violated by local governments seeking increased cotton harvests.

as legal entities. Until a clear policy decision resolves this legal inconsistency, their lack of legal status will hinder a farm’s ability to obtain commercial finance. A second issue requiring improvement relates to the governance and management of dehkan farms; while the law has been changed to improve the management of dehkan farms to some degree, more comprehensive reforms are still needed.

Although no progress was made on amending the Law on Deh-

kan Farms during LRMDP, the project team made tremendous progress in improving the farm restructuring process and making the distribution of farm property more equitable. The project achieved this progress through support to legal aid centers and tashabbuskor, who educated farmers about their rights and provided extensive assistance during farm reorganization to ensure that farmers’ rights were protected and the law was respected. This work is discussed in the next chapter.



LRMDP

A representative of legal aid center Saodat provides training to farmers in Sughd Oblast. LRMDP emphasized training farmers directly in their fields.

IMPROVING FARMERS' KNOWLEDGE OF LAND AND PROPERTY RIGHTS

RESULTS ACHIEVED

- 10 legal aid centers operational by end of project, actively serving citizens with legal problems:
 - 5 centers opened (Year 1)
 - 4 new centers opened for a total of 9 (Year 2)
 - 7 new centers opened for a total of 16 (Year 3)
 - 6 centers closed over the course of project for performance reasons
 - 62 tashabbuskor trained by the project and working in rural communities.
 - 10 NGOs strengthened by end of project with trained staff, strategic and business plans, and management systems.

While the pace of Tajikistan's land reform has been slow, new laws and decrees have been passed that give farmers opportunities to move from Soviet-style collective farms (*kolhoz*) to dehkan farms, where one or more farmers hold land-use rights. However, most farmers have been unaware of the rights and protections afforded them under these new laws, or even the original ones. For example, Decree No. 522 gave farmers a voice in deciding whether state-owned farms were broken up in dehkan farms on which several families, a single family, or a single individual held use rights. As most farmers were unaware of this right, government officials often made these decisions on behalf of farmers, decisions that were not necessarily in their best interests.

To address this situation, LRMDP pursued several strate-

gies to ensure farmers were familiar with and understood their rights under Tajikistan's laws. The team established a network of legal aid centers, run by local NGOs, and trained a cadre of *tashabbuskor* (volunteer rural activists) who could inform farmers about a variety of topics, including basic land rights and the process of creating dehkan farms. It also conducted a survey to identify both topical and geographical gaps in farmers' knowledge. In addition, LRMDP staff implemented an extensive public education campaign through the media, including radio, television, and printed materials. Given the active involvement of several donors in this sector, LRMDP also spearheaded an initiative to coordinate donor efforts and thereby increase the effectiveness of educational work.

OBJECTIVES OF FARMER OUTREACH

- Increased awareness by farmers of their land-related rights and obligations and increased capacity to realize those rights
- Facilitation of the farm-debt resolution process through provision of legal services to farmers
- Resolution of farm-debt cases to favor as many farmers as possible
- Increased access to land by farmers
- Strengthened land-tenure rights
- Increased productivity of land
- Promotion of a rural land market

BUILDING A NETWORK OF SUPPORT FOR FARMERS

Legal aid centers. Under the earlier Land Tenure Reform Project, USAID had met existing demand for legal advice by creating several legal aid offices. Through LRMDP, USAID continued this successful work and established a network of legal aid centers, run by local NGOs. Over the course of the project, staff helped establish 16 legal aid centers, though only 11 functioned continuously from their establishment to the project's end. Five were closed during the project due to performance issues, and one more shut down just at the project's end, leaving 10 currently operational. (One additional reason for closing the five centers — several of which were in more remote areas — was to ensure the project team could provide adequate oversight to each functioning center; those in more remote areas required more assistance than project resources allowed.) Project staff also provided training and technical assistance to build the skills of center staff to help farmers understand and protect their land-related rights.

From its beginning, the project focused its assistance in cotton-growing areas in Khatlon and Sughd oblasts (or provinces). The importance of the cotton crop to multiple parties (local officials, investors, etc.) often made these regions more difficult to work in, and the legal aid centers there required more training time and effort. However, due to the dominance of

cotton in these areas, farmers there were most vulnerable to interference from local governments or pressure or intimidation from investors.

Tashabbuskor. In addition to the legal aid centers, LRMDP set up a network of local activists called tashabbuskor, modeled after Kyrgyzstan's demilgechi network. These activists were identified in several ways. In some cases, legal aid centers put forth names of people who — in center training sessions — had been particularly outspoken and committed to solving problems. In others, people with local stature or special expertise or interest in land issues were approached to become tashabbuskor. As in Kyrgyzstan, these volunteers were paid an honorarium (but not a salary) for their service to the project.

Over the life of the project, LRMDP staff engaged 62 activists. Tashabbuskor organized roundtable events and meetings and advised fellow community members on land-related problems, such as those related to payment of taxes, farm restructuring, or irrigation canals. They answered farmers' basic questions and were often able to mediate disputes and thereby avoid the need for legal assistance. If they encountered a more complex problem, or one requiring skilled legal advice, tashabbuskor referred the person with the problem to the project's legal aid centers. LRMDP used the Kyrgyz demilgechi program to help build tashabbuskor capacity and develop their working methodology and reporting formats.



Tajik farmers review training brochures distributed by the project. LRMDP provided written legal guides on a variety of topics for each of the farmers trained.

Making the network sustainable. During the project's first two years, as staff set up and built the capacity of the legal aid centers and members of the tashabbuskor network, the two groups remained distinct, though complementary. For example, the tashabbuskor sent referrals to the legal aid centers and center staff participated in tashabbuskor roundtables. In 2007, LRMDP staff took the first step toward making the legal aid network sustainable by blending the two and giving the NGOs running the legal aid centers the responsibility of managing the tashabbuskor.

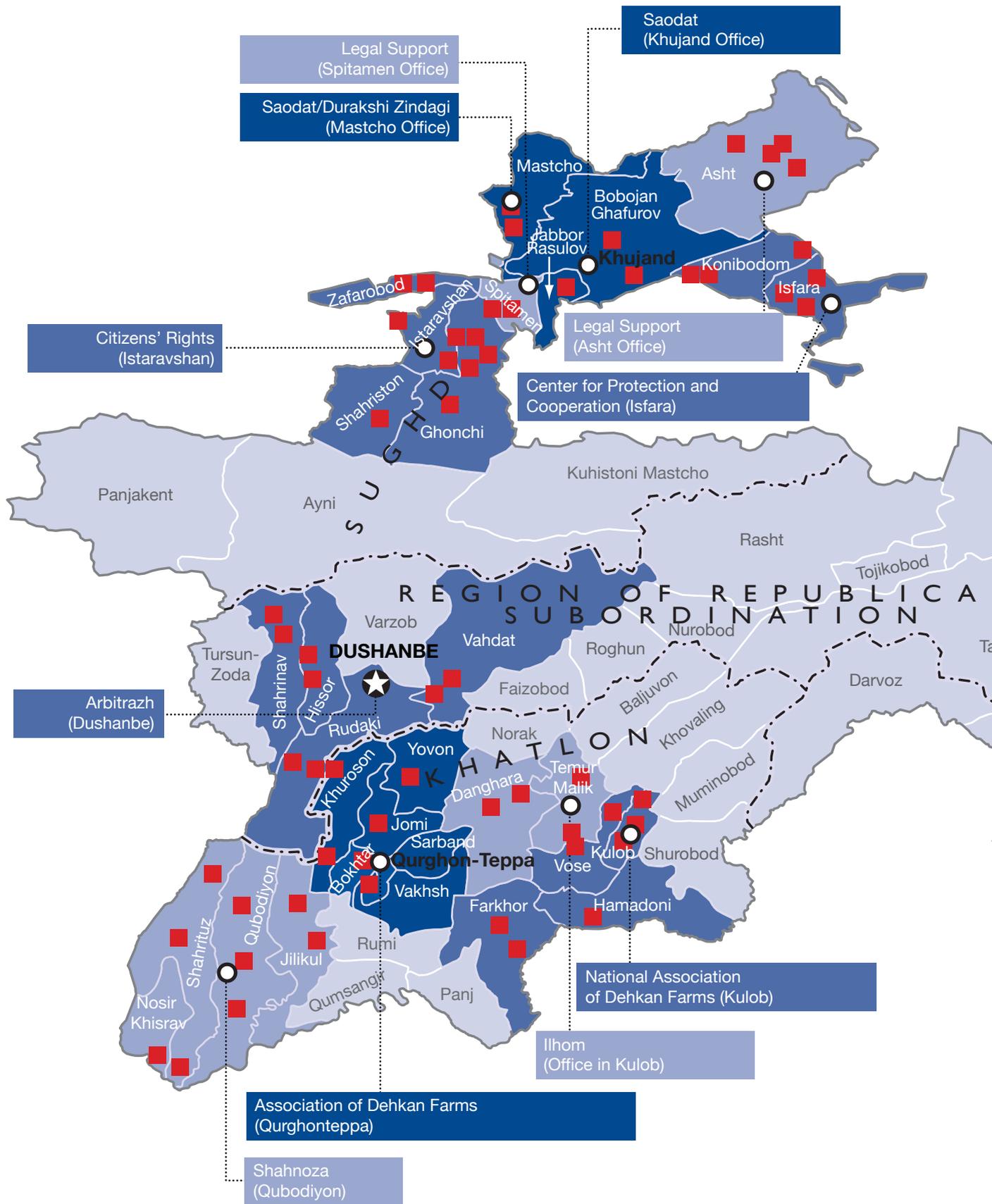
Some NGOs were initially displeased with their increased responsibilities and complained that the tashabbuskor did not fulfill their obligations. However, these same NGOs later praised the change. Their legal aid centers were located in cities or bigger towns, often far from farm-

ers. Making the tashabbuskor part of their organization put the legal aid centers in direct contact with potential clients living in villages. The legal aid centers became hubs with spokes — the tashabbuskor — that reached into the rural areas in every direction around them.

By the end of the project, this outreach network had matured, resulting in further improvements in the quality of education and legal assistance provided to farmers. As a result of the hub-and-spoke system, more cases were referred to legal aid centers by tashabbuskor, and some centers signed contracts with tashabbuskor to continue their relationship after the project ended.

An independent evaluation conducted by the SDC in June 2008 characterized the project-sponsored network of legal aid centers as the most profes-

LEGAL AID CENTERS AND TASHABBUSKOR, YEAR 3



Key

- Jamoat where tashabbuskor is located
- Location of legal aid center
- Extent of legal aid center's area of responsibility
- NGO Name of NGO grantee running legal aid center



sional and experienced group of legal advisors in the country. To support both groups in achieving this success, project staff constantly monitored their work, provided regular feedback designed to help them improve, and encouraged them to take on new and challenging cases.

Strengthening NGOs. In 2008, building on the relationships existing between tashabuskor and legal aid centers, project staff took several steps to strengthen coordination between the NGOs themselves. To facilitate the exchange of legal knowledge and best practices, the project instituted monthly coordination meetings for the centers. At these gatherings, which would rotate from one center to another, center staff could discuss their experiences resolving land-related cases and concluding partnership agreements. Center staff also made plans to organize NGO staff exchanges to heighten collaboration and knowledge-sharing. Following several of these project-sponsored exchanges, the centers independently proposed forming an association of legal aid centers, led by Citizen's Rights, the most experienced NGO. After the SDC learned of this plan, they agreed to fund the development of the association.

EDUCATING FARMERS IN THE FIELD

In 2006, LRMDP surveyed 200 farmers — from both collective and dehkan farms — in Khatlon and Sughd oblasts to

assess their level of awareness of the land-reform process. The results showed that some 70 percent of respondents were not aware of their rights or of the process of land reform. More than 90 percent had never received any information about land reform. In particular, farmers worried that they did not know how to obtain a land-use certificate or that the requirements were too difficult and expensive.

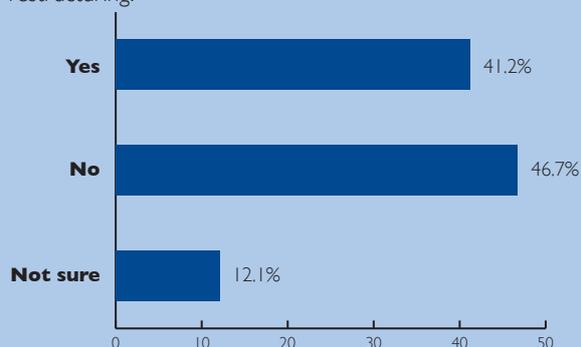
Working from the findings of this survey, project staff drafted the first brochures describing the creation and reorganization of dehkan farms and published them in both Tajik and Uzbek languages. With these brochures in hand, staff from the legal aid centers travelled from farm to farm to meet farmers, train them in the procedures of creating dehkan farms, and inform them about their rights. Generally, the training sessions included members of a single small farm or a subset of a larger farm, and the centers' trainers delivered an average of 24 sessions a month. LRMDP's training coordinator regularly observed training sessions and provided immediate feedback on technique and helped ensure a consistent level of quality across all NGO-led training sessions.

During the life of the project, more than 58,000 farmers were trained. By teaching farmers about their land-use rights and farm reorganization, the project helped to empower them in their dealings with government authorities and investors.

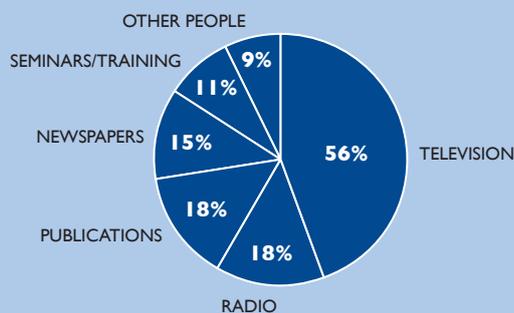
SURVEY OF FARMER KNOWLEDGE, 2007

KNOWLEDGE OF LAND RIGHTS

Have you heard of land-use rights and farm restructuring?

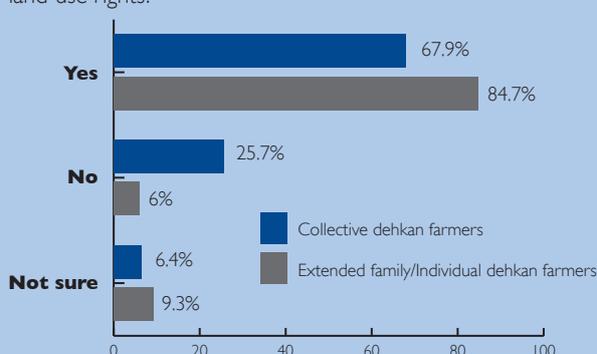


BEST SOURCES OF INFORMATION ABOUT LAND RIGHTS AND FARM RESTRUCTURING

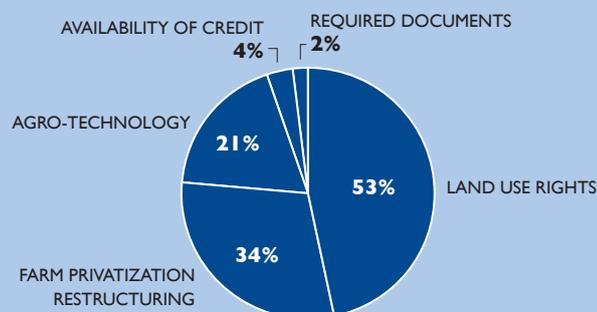


OWNERSHIP DOCUMENTS

Do you have a certificate proving ownership of land-use rights?



TOPICS FARMERS WANT MORE INFORMATION ABOUT



Source: Knowledge, Attitudes and Practices Study, March 2008

ASSESSING FARMERS' KNOWLEDGE AND ATTITUDES

In 2007, LRMDP and the World Bank co-funded a survey of farmers throughout Tajikistan to assess their knowledge, attitudes, and practices with respect to land rights and farm reorganization. On a 13-item test of respondents' knowledge of six key pieces of land legislation, farmers answered an average of eight questions correctly. About

25 percent reported they had some knowledge or good knowledge about these laws. Overall, only 45 percent rated their knowledge as "somewhat good" or "very good." Some 80 percent of farmers obtained information about land-use rights or farm restructuring from at least one media source, and a plurality (56 percent) rated TV as the "best" source, even those who had attended training sessions. This reality suggested the benefit of

CASE STUDY

NGO Citizen's Rights



Bakhtiyor Nasrulloev, director of the NGO Citizen's Rights, assists Muborak Zufarova, who was made homeless after her house was illegally seized by the local government. The success of her suit in court means she will get her house back. Ms. Zufarova is just one of the many needy clients Citizen's Rights wants to continue assisting through its strategic plan even after donor funding ends.

CHALLENGE. Achieving sustainability is difficult for many local NGOs. Fully dependent on donors, they assist, educate, and advocate for their communities, only to be unable to continue their work when donor funds end. The NGOs funded by USAID's LRMDP project to provide legal aid to Tajikistan's farmers are no exception.

INITIATIVE. Citizen's Rights — an Istaravshan-based NGO that ran a legal aid center for the LRMDP for three years — trained thousands of farmers, carried out hundreds of consultations, conducted dozens of court cases, and reorganized numerous farms. Fearing that an end to LRMDP funding would jeopardize its ability to continue this work, Citizen's Rights developed a model for future sustainability by cultivating a fee-paying client base. This new income would allow it to continue offering free services to those most in need.

RESULTS. By following its strategic plan, Citizen's Rights has diversified its revenue sources by finding paying clients among the farms, businesses, and government bodies that it has assisted for free over the past three years. Having demonstrated its value to these groups, the NGO has been able to sign several service contracts and retainers with two district-level land committees, with farms they helped to create through the project, and with other private parties. Their fees are based not only on the service rendered but also on the client's ability to pay, allowing even poor farmers access to assistance. As a sign of staff commitment to the organization's growth, members also make monthly contributions to a general fund to cover additional expenses related to their mission.

In May 2008, Citizen's Rights shared its experience with eight other LRMDP NGO grantees to help them strengthen their long-term viability. These eight grantees are now looking at ways that they, too, can find paying clients among their non-paying ones, providing these organizations with stability and their communities with a sustainable source of legal assistance on land issues for years to come.



A tashabbuskor helps a local resident with a land problem. LRMDP assisted farmers through a network of land activists living in villages around the country.

the project's ongoing work using TV to educate farmers.

With respect to knowledge, men were much more likely to have more information than women, who scored lower on the tests. For example, men were three times more likely to attend training and significantly more likely to get information from the media. Moreover, women frequently said they had trouble understanding publications and TV programs about land. This finding enabled the project team to create more accessible training materials and make special efforts to attract women to trainings.

According to survey findings, approximately 75 percent of farmers somewhat or strongly favor recent changes made in farm restructuring and land-use rights. In addition, almost two-thirds said they were satisfied with the process being used to

reorganize dehkan farms. The survey clearly showed that family/individual dehkan farms were doing better economically than collective dehkan farms and that those in non-cotton growing areas were more likely to grow crops of their choice (rather than that of the government). In addition, approximately one-third of collective dehkan farmers had not yet received a certificate confirming their rights to their plots. Farmers working on state-owned farms had the least general knowledge about land reform, particularly in Konibodom (where LRMDP established a new legal aid center to address this need).

While extended family or individual farms were more successful, farmers perceived a number of important barriers that prevented them from petitioning to break up their collective dehkan farms. The report concluded that

A journalist interviews a farmer for the project's "Your Rights to Land" TV series. A project survey showed that the best way to reach farmers was through television.



LRMDP did not necessarily need to provide farm inputs or access to water or credit, but should focus on how these perceived barriers might affect the overall process of farm restructuring. In particular, project activities must take into account local officials who control or influence allocation of machinery and inputs. For this reason, the project highlighted local government training during Year 3.

REACHING THE PUBLIC THROUGH THE MEDIA

In addition to in-person training, LRMDP informed farmers through broadcast and print media. The project team used the media to publicize success stories to show farmers that they can take effective actions to protect their rights. In addition, project staff answered questions directly from the public, either on the radio or in a special newspaper section.

Television, radio, and newspapers enabled the project team to educate farmers it was not able to reach through field trainings. These media also provided the opportunity to inform farmers about legal amendments or convince them to try working with a tashabbuskor or legal aid center to solve their problems.

Television. In April 2006, LRMDP launched the "Your Rights to Land" TV series, produced by two journalists from Television Tajikistan (TVT) and aired on the national channel. Created in the Tajik language, the 10-minute programs covered the activities of the project's legal aid centers and tashabbuskor, as well as other initiatives. The TVT journalists spent significant time interviewing farmers in the field to understand their problems/questions and also conducted interviews with local governments and



A Tajik farmer reads the project's issue of the Kimiyoi Khirad newspaper, which provided farmers with legal updates about land and solutions to common land problems. The project had to increase the print run of this monthly newspaper due to high demand.

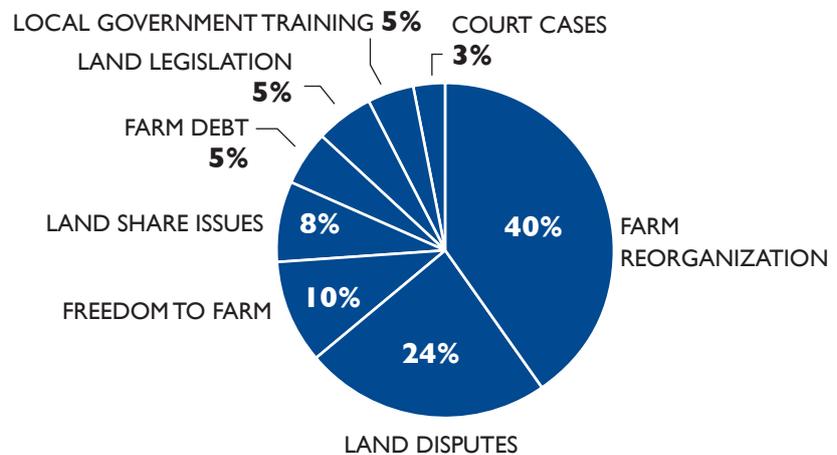
LRMDP

local representatives of the State Land Committee.

Radio. LRMDP also treated many of the same issues and themes in a radio format as part of the “Your Rights to Land” series, broadcast on the national

radio station. The 20-minute programs were aired in the Tajik language and were broadcast nationwide. Although TV was by far the most popular medium, radio had the advantage of being played out in the field and could reach farther than

SUBJECTS COVERED IN BROADCAST MEDIA PROGRAMS



TRAINING MATERIALS PREPARED JOINTLY WITH OTHER DONORS

- Reorganization and creation of dehkan farms (USAID/LRMDP)
- Taxation (USAID/LRMDP)
- How to protect your rights (EC/ACTED)
- Contracts (EC/ACTED)
- Farm business management (EC/ACTED)
- New mechanisms for financing (ADB)
- Setting up a Water Users' Association (USAID/WUASP)

TV signals. The project received about a dozen calls on average from farmers after each TV or radio show.

Print media. After determining that several local newspapers had insufficiently broad circulation, project staff began working with a private newspaper, *Kimiyoï Khirad* (“the source of wisdom”). In mid-2007, project and *Kimiyoï Khirad* staff started publishing monthly editions of the paper devoted entirely to land issues. In Year 3, the monthly print run was nearly tripled to 1,500 copies due to increased demand. Distributed by tashabbuskor and legal aid centers, the newspaper played a crucial role for farmers by giving them documentation of their legal rights. Farmers would bring copies of the paper to their meetings with local authorities — who often took advantage of public ignorance of the law — and used them to hold these officials to the law. For example, the edition that reprinted the annual tax rates was very popular because it gave members of the public a tool to help them reduce the chances they would be overcharged. LRMDP also used the newspaper to reprint the text of new laws and of amendments to laws, making it the only conduit for copies of laws to the public.

COORDINATING WITH OTHER PROJECTS

Given the multiple donor projects that supported farmer education, in 2006 LRMDP set up a group to coordinate their sometimes

overlapping activities. The Coordination Group included

- the U.K. Department for International Development (DfID),
- the Asian Development Bank (ADB),
- several UN agencies (UNFAO, UNIFEM, and UNDP),
- the Organization for Security and Co-operation in Europe (or OSCE),
- the Agency for Technical Co-operation and Development (or ACTED), and
- the European Commission (EC).

As group leader, the project team completed a full survey of existing legal aid centers across the country. LRMDP staff then used these results in work with the ADB and SDC to formulate a framework for a possible future network of legal aid centers that would benefit from more closely coordinated donor assistance.

Given the range of donor projects, each producing their own training materials, LRMDP grew concerned that these projects were disseminating inconsistent information. To address this issue, the project team sought to harmonize farmer training materials by taking advantage of each project’s relevant strengths and pooling resources. In 2007, through the Coordination Group, LRMDP led the development



LRMDP

Farmers read one of the project's brochures on land rights at a roundtable event. The project used roundtables to address common problem faced by farmers, and often invited local government representatives to strengthen the relationships between the government and farmers.

of a new brochure on the freedom to farm, which was the first jointly prepared brochure to be used by all donor-supported legal aid centers (the freedom to farm is covered in Chapter 9). Following the success of this new brochure, LRMDP led an effort to prepare seven additional

harmonized brochures. LRMDP staff emphasized two important improvements in the new materials. First, their design was made more accessible through the use of more images and less text, and second, a separate, more technical version of each set of materials was drafted for trainers.



LRMDP

A staff member from the project's office in Bishkek trains Tajik farmers. The project used its positive experience in Kyrgyzstan as a model for its training activities in Tajikistan.

CHAPTER EIGHT

HELPING FARMERS ACCESS LEGAL SERVICES

RESULTS ACHIEVED

- 30 farms reorganized; 100 percent with full citizen participation; 770 new dehkan farms created
- 23,530 land-use certificates issued with project assistance
- 33,729 citizens assisted by legal aid centers and tashabbuskor
- 10,830 problems solved by legal aid centers and tashabbuskor
- 47 court cases initiated

As described in the previous chapter, according to two surveys conducted by LRMDP, less than half of Tajikistan's farmers feel they have good knowledge of the laws relevant to land reform and their land-use rights. Based on the cases presented to project-affiliated tashabbuskor and legal aid centers, farmers feel they need the most help with issues related to reorganizing/creating dehkan farms, land-use rights, and land taxes. Although the reorganization of Tajikistan's farms is nearly completed, a number of disputes over reorganizations persist.

In addition, many farmers (particularly cotton farmers) face the problem of crushing debt, as described in Chapter 6. Many donor organizations have contended that as much as half of this farmer debt is fictitious or even illegal, but most farmers lack the resources and know-

how to free themselves from this burden.

To address this need for legal information and aid, LRMDP staff deployed their network of tashabbuskor and legal aid centers to provide advice and assistance (legal and otherwise) to farmers. Since the tashabbuskor were located in the villages, they served as the first point of contact with the project for many farmers. In instances, where tashabbuskor were not able to resolve the issue, they passed the case on to their respective legal aid center for further action. If the legal aid center was unable to resolve the problem any other way, it helped the farmer make his/her case in court. LRMPD supported the NGO lawyers in all stages of the court cases, thereby helping to improve the broader rule of law as well as contributing to the development of a cadre of attorneys knowledgeable about land law.

SUCCESS STORY

Throwing off the Yoke of Debt

Legal aid centers free farmers from debt.



The head of Dehkan Farm Fozil bobo consults with project staff about his court case. Despite facing pressure not to proceed with the case, the farmers perseverance paid off — and not just for themselves. Their court victory also benefitted 61 other farms.

USAID's Land Reform and Market Development Project promotes secure land-tenure rights in Tajikistan by providing legal assistance to government officials and law drafters. The project also teaches farmers about their rights under the law and provides them with legal advice and counseling.

The median annual salary of a cotton farmer in Tajikistan is around 182 somoni (\$53). For the members of Dehkan Farm (DF) Fozil bobo, therefore, a debt of \$5,000 — more than 90 times their annual earnings — was a crushing burden. Like many of Tajikistan's farmers, they inherited this debt when their private farm was created from the remnants of a state-run collective. Though DF Fozil bobo's farmers had no part in amassing this debt, they were forced to accept it. Sadly, stories of this extreme indebtedness are typical in Tajikistan, where cotton financiers have long kept farmers under a heavy yoke of debt with their predatory lending practices.

For members of DF Fozil bobo, as well as members of other farms created alongside it, the chance to annul this debt resulted from assistance from the legal aid center Citizen's Rights, which was supported by USAID's Land Reform and Market Development Project. After investigating the case, the Citizen's Rights lawyers discovered that DF Fozil bobo had received its debt before it was even created. The lawyers also discovered that the company demanding payment — the Closed Joint Stock Company (CJSC) Olimi Karimzod — had provided the funds in question to the state-run collective illegally because it lacked a license.

In July 2008, the lawyers of Citizen's Rights presented this evidence to the Economic Court of Dushanbe and, after several hard-fought legal battles with Olimi Karimzod, emerged victorious. Because they had argued that the original loan was illegal and that it had been given to the state-run collective rather than the dehkan farms created from it, the resulting court decision effectively canceled the debts not only of DF Fozil bobo but also of all other farms produced by the reorganization of the original collective farm. As a result, 62 farms saw their debts annulled and their members freed from a combined financial burden of some \$620,000.

For the 2,039 members of these farms, this decision means that from now on their hard-earned income will remain in their hands. Farmers in Tajikistan will continue to face challenges like that DF Fozil bobo faced as their development continues, but thanks to the legal assistance of Citizen's Rights and USAID's Land Reform and Market Development Project, these rural citizens can rest assured that they are now free from a heavy yoke of debt.

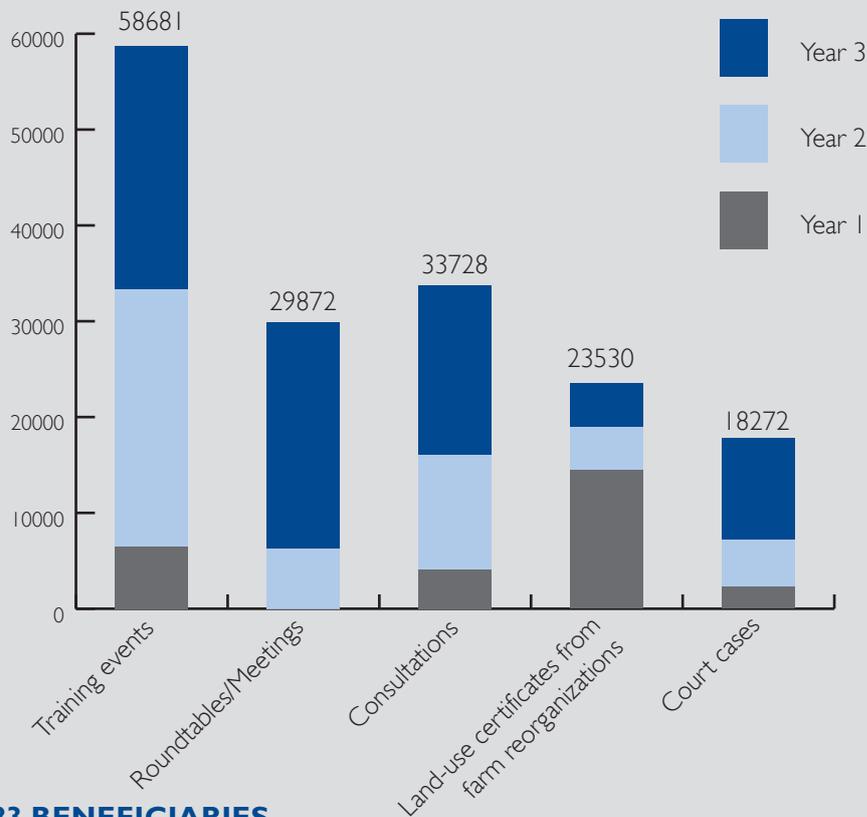
The project originally envisioned helping farmers resolve their debts, but the failure of the GOT and the donor community to agree on a course of action handicapped LRMDP's ability to provide this assistance. However, project-supported legal aid centers were able to win several important cases against cotton investors and free farmers from debt that was fraudulent or assigned under unconscionable terms. With project support, farmers also won numer-

ous suits against local government officials who violated the law by interfering excessively in farmers' activities.

HELPING REORGANIZE FARMS

As the project's two surveys discovered, farmers lacked sufficient information about the process of reorganizing farms and their rights under the Law on Dehkan Farms and decrees nos. 522 and 1775. The ALMGC was responsible

NUMBER OF BENEFICIARIES BY TYPE OF ACTIVITY



TOTAL = 164,083 BENEFICIARIES

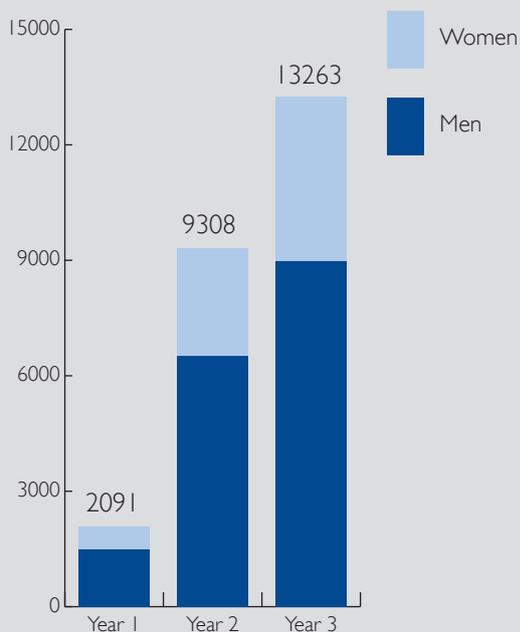
for the process, and each year it identified the farms that would be restructured. However, according to Decree No. 1775, only the founder of a farm (or his/her authorized representative) has the authority to reorganize a farm, which could include associating or joining two or more farms or distributing, dividing, or transforming land from a single farm. Likewise, only the founder can assign a legal status to agricultural entities. The intervention of local

authorities in farm members' decision to create/reorganize dehkan farms is, in fact, forbidden by law. Despite this prohibition, local officials often overstepped their authority and directly controlled the reorganization process, making decisions about how many farms would be formed and how the property would be divided.

To ensure that a farmer in LRM-DP's strategic areas received the benefit of these legal protections,

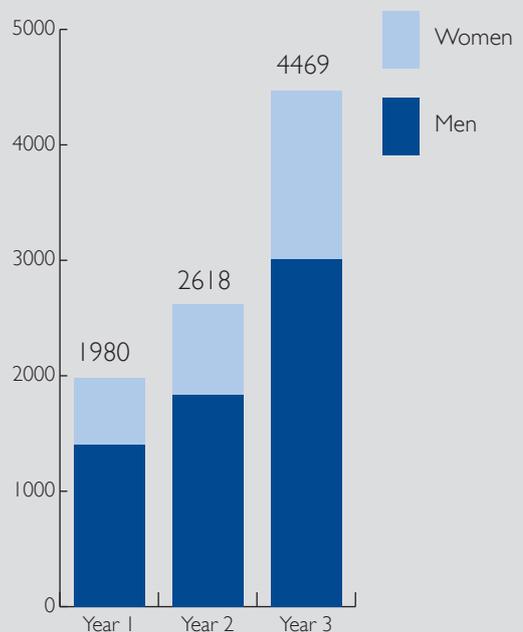
PROJECT-SUPPORTED CONSULTATIONS

TASHABBUSKOR



TOTAL = 24,662 CONSULTATIONS

LEGAL AID CENTERS



TOTAL = 9,067 CONSULTATIONS

legal aid center staff accompanied him/her through each stage of the process — supervised by local officials — to ensure transparency and compliance with the law. Prior to the farmers' general meeting, the center staff provided them with relevant information. During the meeting, which staff attended, they ensured full participation of all the farm's members during the decision to reorganize. Afterwards, center staff helped farmers fill out the appropriate documents. Over the life of the project, the legal aid centers helped reorganize 30 state-owned farms into 770 new dehkan farms. After the restructuring was complete, they made sure that the more than 23,500 farmers involved received land-use certificates safeguarding their legal rights to use a land plot.

RESOLVING PROBLEMS OUTSIDE OF COURT

Building cooperative relationships.

In order to facilitate debate about local issues, build cooperative relationships, or mediate local disputes, tashabbuskor often organized roundtable meetings. Staff from the nearest legal aid center often attended, and local government officials were invited to do so as well. At these meetings, several farmers could discuss the challenges they faced, while the tashabbuskor encouraged the farmers and local official to collaborate to find a solution. These sessions also allowed legal aid center staff to learn about local problems and provide legal advice beyond the purview of the tashabbuskor. Meetings without local officials were also organized to enable farmers to explore a problem and possible solu-

tions among themselves. Finally, in such a meeting, a tashabbuskor — as a person of local stature — might help mediate a dispute between local farmers.

Giving farmers legal advice.

When a problem was too complicated for a tashabbuskor to resolve he or she would refer it to a legal aid center, which kept regular office hours for farmers to visit, ask legal questions, and discuss any disputes or problems they were facing. The legal aid centers could also help farmers with a problem that required mediation, such as a dispute between private individuals (say, between an investor and a farmer over debt) or one between a farmer and the government. In such instances, the legal center staff worked to resolve the issue using various problem-solving techniques. In one-on-one consultation sessions, the centers were able to help farmers complete administrative applications, review contracts, calculate correct tax payments, and provide information on basic land law. Some of these issues could also be handled by tashabbuskor.

REPRESENTING FARMERS IN COURT

Court cases. When legal aid center staff were unable to help farmers resolve their cases using other means, they helped the farmer bring the case to court. Most of the cases went through the economic courts, although some went through the civil courts (in particular, those involving inheritance disputes). Only a handful were handled by the criminal court system.

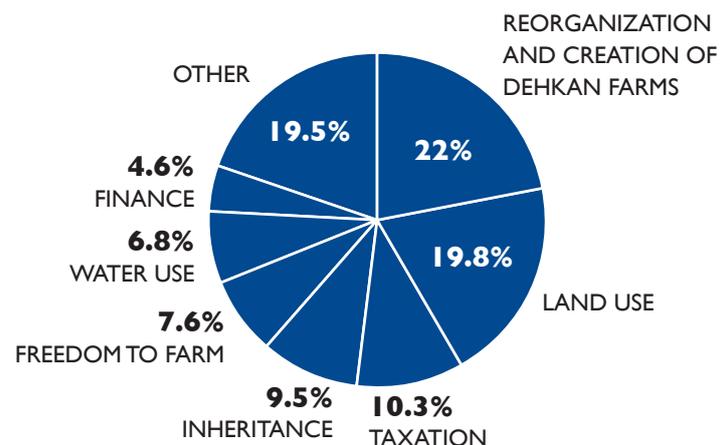
Over the course of the project, LRMDP supported legal aid center lawyers through 47 court cases, providing assistance to 18,272 beneficiaries. The number of people who benefited is so much larger than the number of cases because many cases were brought by a single individual who represented the interests of thousands of other farmers.

Some of the cases were groundbreaking. For example, in *Republic of Tajikistan v. Dehkan Farm Saodat (2006)*, the project was able to help restore land-use rights to 100 women farmers, whose land had been confiscated and given to local businessmen. In *Dehkan Farm Fozil bobo v. CJSC Olimi Karim-*

zod (2008), the project was able to annul \$620,000 worth of debt for 62 farms (see success story on page 84).

Publicized on TV and the radio, the success of project-supported cases in court caused a near avalanche of cases towards the end of the project, indicating farmers' increased confidence that the courts would fairly resolve their issues. While not its primary focus, the project was able to generate this improvement in the rule of law in Tajikistan by pushing the courts to interpret the law correctly and ensuring that it was being applied fairly. These project efforts were significantly aided by the independence

SUBJECT OF FARMERS' CONSULTATIONS WITH LEGAL AID CENTERS AND TASHBBUSKOR



many judges displayed in their decisions, particularly when defendants were very wealthy and powerful investors able to influence judicial outcomes.

Advocacy training. With the increase in the number of court cases, in late 2007 LRMDP began providing training designed to improve the advocacy skills of the legal center attorneys, many of whom did not have previous courtroom experience. In addition, in March and May 2008, project staff reviewed the new Code of Economic Procedure with the attorneys, discussed debt-resolution court procedures in light of the increasing prevalence of such cases in local

courts, and introduced the option of third-party arbitration resulting from a newly adopted law. Finally, project staff organized — for the first time — role-playing sessions simulating courtroom scenarios (similar to mock trials). These sessions were designed to introduce legal center attorneys to courtroom procedures and help them learn to think as if they were representing a client in court. The positive feedback from these sessions showed their value as an instructional tool, which could be further developed. Through these activities, LRMDP staff helped develop a group of experienced land lawyers with valuable and highly sought professional skills.

EXAMPLES OF LEGAL ADVOCACY

Securing ownership rights for citizens. In Mastcho Rayon, Sughd Oblast, the legal aid center Saodat helped F. Safarov finalize the purchase of warehouses from a former kolkhoz. Mr. Safarov paid for the buildings three years ago, but local officials would not transfer the property to his name. With the help of Saodat, he was able to navigate the legal requirements, conclude a proper contract, and become the rightful owner of the buildings.

Advocating for rightful inheritance. Saodat assisted Mr. Pulotov in regaining a house plot bequeathed to him by his mother.

Mediating a family dispute. A legal aid center (LAC) helped Gulsara Ismoilova regain access to a house that had been bequeathed to her and her siblings but appropriated by her brother.

Advocating for local farmers. Dehkan Farm Chubek was paid for only half of the cotton and cotton seeds it sent to the local cotton processing plant. LAC ADF submitted a claim to the plant on behalf of the farmers and was able to resolve the issue amicably.

Upholding shareholder rights. LAC Shahnoza helped a group of farmers receive unpaid salary from Dehkan Farm Pahtaobod.

Compensating investments in land. LAC Citizen's Rights assisted 35 farmers who had leased 70 hectares from Dehkan Farm Navruz for the last nine years. During this time, they improved the land by adding an orchard and irrigation system. When the lessor took back the property, the lessees sought compensation for the improvements. In the end, mediation efforts succeeded, and the parties agreed on compensation.

Mediating border disputes. LAC National Association of Dehkan Farms (NADF) and Tashabbuskor Z. Sattorov assisted farmers from Dehqonariq Jamoat in resolving a land dispute with local cotton processing plant Nekruz. Identifying additional residential plots in the balance of its lands, the jamoat issued these to its farmers to build houses on. However, after house construction began, the cotton plant claimed the rights to the tracts. NADF and Mr. Sattorov confirmed with the National Land Committee that the land did not belong to the cotton plant, which subsequently relinquished its claim.

Claiming the freedom to farm. Forced silkworm cultivation became a major freedom-to-farm issue in Sughd Oblast. LAC CPC organized a roundtable at which this issue was discussed by Isfara farmers and representatives of the Isfara Rayon government. CPC submitted a claim to the oblast government on the farmers' behalf to halt the imposition of silkworm cultivation. The project also covered this issue for the "Your Rights to Land" series.

Reorganizing farms. The project helped the 1,038 shareholders of former collective farm Dusti to reorganize into smaller private farms. The process initially met with opposition from local government officials, but with the assistance of LAC CPC, 22 separate farms were created, some with as few as two shareholders and some with more than 200.

EXAMPLES OF NOTABLE COURT CASES

Zufarova v. Ghonchi Rayon. LAC Citizen's Rights represented Ms. Zufarova, whose home and 1.42 hectares of land was repossessed by the local government of Ghonchi and given to a member of the police. She was left homeless. The case was initially decided on behalf of the policeman in the courts of both Ghonchi Rayon and Sughd Oblast, but the decision was overturned in an appeal to the Sughd Oblast Reviewing Authority. All land and property was returned to Ms. Zufarova.

DF Barzgar v. CJSC Olimi Karimzod and DF Aziz v. CJSC Olimi Karimzod. LAC NADF helped resolve two cases with the same problem. Dehkan farms Barzgar and Aziz sued Olimi Karimzod, a powerful investor, seeking payment of fraudulent debts. The cases were initially considered in the oblast-level court of Khatlon and decided in favor of the dehkan farms. Olimi Karimzod appealed to the Supreme Economic Court of the Republic of Tajikistan to overturn the verdict. To bolster the farms' legal case against the increasingly aggressive investor, the project brought in Bakhtiyor Nasrulloev, a lawyer and barrister from LAC Citizen's Rights. Mr. Nasrulloev successfully defended the farms and the case was again decided in favor of the farms. Unrelenting, the investor appealed to the Economic Court of Cassation. In both final appeals, the cases were decided in favor of the farms.

DF Vaksh 2 v. DF Samarkand S. LAC ADF represented Kholmahmad Kurbonov, a man who (along with 12,289 other members of his former state farm) did not receive a land share when the farm was reorganized in 2005. The errors in the process were corrected that year, and Mr. Kurbonov was given a share in the privatized Dehkan Farm Samarkand S. However, DF Samarkand S refused to give Mr. Kurbonov a piece of its farm when he wanted to break away, and DF Samarkand S petitioned the Khatlon Oblast Economic Court to annul the creation of Mr. Kurbonov's new farm Dehkan Farm Vaksh 2. On Mr. Kurbonov's behalf, LAC ADF submitted a counterclaim, which succeeded. However, DF Samarkand S appealed to the Supreme Economic Court, and the decision was overturned. The Supreme Economic Court's decision was upheld in later appeals.

CJSC Guliston v. Melkombinat Nau Rayon. LACs Legal Support and Citizen's Rights represented about 8,000 shareholders of CJSC Guliston, who were deprived of their shares and property after the closed joint stock company was illegally changed into an open joint stock company and sold out from under them. Though the project could demonstrate a clear act of fraud, the LACs initially had difficulty getting the Sughd Economic Court or the Supreme Economic Court to hear the case. Both courts cited procedural issues preventing them from doing so. However, LAC lawyers won their appeal to the cassation board of the Supreme Economic Court, and the case was sent back to the Economic Court of Sughd Oblast for a hearing, representing a major step forward in the suit.

DF Oiqul v. CJSC Olimi Karimzod. Dehkan Farm Oiqul was created in March 2006 during the reorganization of state-owned farm Rifat Hojiev in Sughd Oblast. However, in January 2005, according to a three-party contract, CJSC Olimi Karimzod and farm Rifat Hojiev transferred farm debt in an amount of \$8,494.21 to the newly created Dehkan Farm Oiqul. By the start of the case in 2007, Olimi Karimzod documents showed that Oiqul owed \$9,589.06, including interest accrued from January 1, 2005 (a date prior to Oiqul's creation). When Rifat Hojiev was broken up, 62 farms were created, all with the same false debt problem as Oiqul. The claim was prepared by Citizen's Rights and submitted to the Economic Court of Dushanbe, which consistently decided in favor of Oiqul because of the clear falsification of documents. Oiqul's debt was annulled. Nonetheless, Olimi-karimzod continued to harass Oiqul to make it accept the past debts. Clearly, Olimi Karimzod was worried the case would set a precedent for the 61 other farms, and indeed these concerns were well founded. The success of Oiqul led 17 other farms to present claims to have their debt annulled. Citizen's Rights subsequently took up the case of Fozil Bobo and successfully sued Olimi Karimzod (see success story on page 84).



LRMDP

A farmer offers tomatoes for sale at a roadside market. LRMDP was a leader among donor projects in promoting the “freedom to farm,” that is, farmers’ rights to grow crops other than cotton.

CHAPTER NINE

PROMOTING THE FREEDOM TO FARM

RESULTS ACHIEVED

- Local government staff in 31 rayons trained within seven months of Land Code amendments being adopted, including representatives from each jamoat within the rayons
- Training included a review of Government Resolution No. 111 on the freedom to farm

The “freedom to farm” — or the freedom of farmers to grow the crops they want, in the quantities they want, and to sell them to whom they want — grew in importance during the implementation of LRMDP. Before 2007, the heads of local government units (oblasts, rayons, cities, etc.) were appointed by the president and were responsible for carrying out the central government’s economic plans, which included meeting production targets for crops, in particular cotton. Local officials compelled farmers to meet these targets by threatening to withdraw their land-use rights without compensation should farmers fail to meet the production targets assigned to them, as such failure was deemed evidence of “irrational” use of the land.

In March 2007, Tajikistan’s government reversed this situation by guaranteeing the freedom to farm in Resolution No. 111,

which was part of its efforts to enable cotton farmers to resolve their large debts. The resolution sought to limit interference from local government in land regulation. It dovetailed with the amendments to the Land Code that ended government’s ability to void land-use rights for putting it to “irrational” use. However, local officials were slow to implement both the resolution and the revised Land Code, either due to a lack of will or a lack of understanding. A joint ADB-LRMDP survey found that in some areas, particularly Sughd Oblast, local officials were still forcing farmers to grow cotton on up to 90 percent of their land and pushing them to take loans from investors.

LRMDP staff took a lead role in championing the freedom to farm. The team took steps to ensure donors presented a unified position on this issue, trained legal

Farmers gather silk worm cocoons and prepare to deliver them to a local processing center. In early 2008, local governments forced farmers to grow silk worms even though they will spend far more to raise the worms than they will get paid by local government for their services.



center staff to mediate between farmers and local officials over freedom-to-farm issues, educated local officials about the content of the legal changes, and monitored ongoing interference by local officials in farmers' affairs.

UNIFYING DONOR EFFORTS TO PROMOTE THE FREEDOM TO FARM

Soon after the passage of Resolution No. 111, LRMDP staff observed that government briefings to inform local officials about it actually contradicted the principles underlying the freedom to farm. To address this situation, project staff approached the Coordination Group it had established of donors working in farmer education to design a collective approach to promoting implementation of the resolution. In cooperation with eight organizations, the project team developed a brochure on freedom to farm, and the UNDP printed

50,000 copies, which were distributed to legal aid centers funded by all donors involved. This instance was the first time that all major donor-funded farmer outreach projects used a single training material.

PREPARING FARMER ADVOCATES

Given the clear need to ensure that farmers were able to exercise their rights under the new legal framework, LRMDP staff also conducted training-of-trainers sessions for partner legal aid centers in Dushanbe, Qurg-honteppa, and Khujand. These training sessions educated the legal aid centers about how the freedom to farm is incorporated in the Land Code, the Law on Dehkan Farms, and Resolution No. 111. In addition, the training also covered mediation skills, which legal center staff would need to resolve farmers' problems with local authorities.

INFORMING LOCAL OFFICIALS

In 2007, LRMDP made the legal aid centers responsible for informing local officials about their evolving roles given the legal changes resulting from Resolution No. 111. The centers held one training session a month for officials, and in some cases, these monthly sessions became forums for introducing local officials (in a roundtable setting) to ongoing problems that farmers faced. Before attending these sessions, a majority of officials reported that they had never read the laws.

After the adoption of the Land Code amendments in early 2008, LRMDP legal aid centers began implementing a training program in 31 rayons and 224 jamoats to inform local officials how the legal changes impacted them. Training participants included jamoat heads, jamoat surveyors, heads of rayon agricultural departments, and state land committee representatives, and most of them said they had never been informed that they could no longer void land-use rights for “irrational” use of the land until the day of the training. LRMDP was the only donor-funded project to meet officials’ clear need for information.

In June 2008, the project team surveyed training participants in Sughd Oblast, Khatlon Oblast, and the Region of Republican Subordination to assess the effectiveness of the training. The survey found that most officials agreed with the shift in their roles from enforcers of centralized agricultural policy

to supporters of the freedom to farm. In addition, they especially appreciated the training manual compiled by project staff, which contains a chart of authorities according to new legislation and a chart comparing the old and new Land Codes. Many officials said the manuals had become their daily reference guides.

The training sessions also provided legal center staff the opportunity to initiate and cultivate relationships with local officials that will help them work more effectively. In the past three years, project staff have observed that the more contact legal center staff have with local officials, the more cooperative their relationship is and the more they are able to resolve problems in a mutually satisfactory manner.

MONITORING LOCAL GOVERNMENT INTERFERENCE

LRMDP found that one reason government officials continued to violate the freedom to farm was the result of a lack of government will to enforce observance of Resolution No. 111. To understand the scale and scope of such violations, LRMDP staff worked with other donors to monitor specific instances. Initially, project staff included a reporting form in the freedom-to-farm brochure disseminated by the legal aid centers. However, staff received only a few complaints, though many farmers attending training sessions continued to complain about interference.

Since farmers did not apparently feel comfortable officially

PERCENTAGE DECREASE IN COTTON CULTIVATION IF FARMERS WERE FREE TO CHOOSE (KHATLON OBLAST IN 2008)

Jomi Rayon	-32%
Kulob Rayon	-50%
Panj Rayon	-38%
Qubodiyon Rayon	-33%
Shahrituz Rayon	-28%
Yovon Rayon	-29%

reporting freedom-to-farm violations, LRMDP staff cooperated with a range of donors — the ADB, USAID (through its Water User Associations Support Program), the EC, the Canadian International Development Agency, and DfID — to conduct a survey of farmers during the 2007 harvest and the 2008 planting season. In 2008, the survey generated 331 responses from farmers in cotton-growing rayons in Khatlon and Sughd oblasts. Legal aid centers interviewed workers on 15 farms, and 20 tashabbuskor interviewed five farms each. The survey and interviews tracked variables such as the area of cotton planted, the source of farm financing, and whether the farmers were subjected to pressure.

The survey found some minor improvement since the passage of Resolution No. 111, mainly

in Sughd Oblast, but still found local officials forcing farmers to grow cotton on up to 90 percent of their land and pushing them to take loans from investors. In Sughd Oblast, the project's surveys found a better situation: farmers said in 2008 that they would like to decrease cotton cultivation by only 10 percent (on average). In contrast, in Khatlon Oblast, farmers sought a decrease of 22 percent (on average). These figures reveal that farmers in Sughd felt under less pressure as the amount of land they had under cotton cultivation was closer to their ideal.

Despite some signs of improvement, a large number of farmers reported that they had been instructed by the local hukumat to allocate a specific area for cotton production in 2008: 62 percent of farmers in Sughd and 80 percent of farmers in Khatlon.

In Sughd, farmers in Zafarobod were most likely to have received instructions to allocate about 85 percent of their irrigated land to cotton production. Farmers in Jabbor Rasulov Rayon were the freest to choose what to farm: “only” 61 percent of their irrigated land had to be set aside for cotton. In contrast, in Khatlon Oblast, four of six farmers in Khuroson reported being instructed to allocate 90 percent of their irrigated land to cotton production. The situation was similar elsewhere in the oblast. Given farmers’ responses to the project’s surveys, cotton production would have been significantly reduced if the freedom to farm had been fully respected.

Given these results, the GOT’s adoption of Resolution No. 312 in July 2008 was timely. This new resolution reinforced Resolution No. 111. In its most specific terms yet, the GOT declared that “Local government executive bodies of the Republic of Tajikistan must cease any kind of intervention in production and economic activities of agricultural producers in terms of planning, production, processing, and selling of cotton and its products.” With such a clear statement from the government, it is hoped that the results of the next farmer survey will show further decreases in local government interference.

REMAINING ISSUES

The results of the survey reinforced the project team’s concerns, shared by other donors, about the difficulty of

improving farmers’ situation, even given the new legislation. As in past years, the majority of farmers in high cotton-producing districts also reported that they had been forced to sign a contract with a specific investor company either due to pressure or the lack of other options. To make matters worse, farmers reported that they could not get access to bank financing because the investor — with support of the local government — prevented banks from offering credit to farmers. In 2008, after the government tried to promote bank mortgages for farmers, additional anecdotal evidence from legal aid centers revealed that investors were already distorting the provisions of the Law on Mortgage by forcing farmers to hand over their land-use certificates as collateral for loans. Investors reportedly also told farmers that the land-use certificate would be held as collateral until past debts were satisfied. These acts reverse the very goal the president of Tajikistan hoped to achieve in introducing the Law on Mortgage in 2008: to make new sources of financing available to farmers.

These findings raised concerns about the potential for new abuses of farmers’ rights. They also make clear that sound safeguards need to be introduced in the implementing regulations for the Law on Mortgage and the regulation on conveying land-use rights and that farmers will continue to need training and legal assistance to defend their rights.



LRMDP

A farmer stands in front of his fields. LRMDP's work has ensured that more farmers can grow the crops they choose.

CHAPTER TEN

OPTIONS FOR FUTURE ACTIONS

In August 2008, LRMDP organized final project conferences in both Khujand and Dushanbe. These conferences brought together all tashabbuskor and legal center members in those regions to review project achievements, identify lessons learned, and develop plans for future activities. Importantly, most legal aid centers concluded that to continue their work, they will need to charge some form of payment for their services. Based on the presentations of the legal aid centers and tashabbuskor, the project staff developed a set of lessons learned from its farmer outreach component.

Increase collaboration between centers and tashabbuskor. Future projects should deepen collaboration between legal aid centers (LACs) and tashabbuskor as a means of extending LAC assistance to remote areas and increasing the assistance tashab-

buskor provide to rural citizens. Given its effectiveness, the hub-and-spoke system — with LACs at the center coordinating with multiple tashabbuskor around them — should be taken a step further by fully incorporating activists into the personnel and financial systems of the centers.

Cultivate greater cooperation among centers. Future projects should increase the number of formal meetings between project LACs that focus on sharing experiences, legal knowledge, and best practices. Tashabbuskor should also participate in the knowledge sharing as members of their respective LACs. This cooperation can serve as the foundation for the national legal assistance network that some donors currently envision for Tajikistan.

Use competition to drive centers and tashabbuskor to achieve even

more. Competition between LACs and between tashabbuskor fosters improved quality of service. As LRMDP did, projects should encourage competition through open and transparent evaluations that recognize leaders.

Closely monitor centers and tashabbuskor. The advocacy work of LACs and tashabbuskor should continue to be monitored to uncover trends, highlight strengths, and identify needs for project assistance. Based on such information, project staff can decide, for example, whether or not to shift village-level assistance to new jamoats should current ones be found to be saturated by project assistance.

Develop legal capacity. Future projects should continue trainings to improve the legal and courtroom skills of LAC lawyers. These trainings should be complemented with additional ones on mediation techniques and third-party arbitration.

Support sustainability. Legal aid centers should be retooled and their staff reoriented to begin working on a partial fee basis. This change would be made gradually while LACs continued to demonstrate the value of their services to rural citizens and build a client base ready to pay. Modest short-term targets for income from fees should be identified, with increases expected over time as rural clients become familiar with the new financial paradigm. During the transition, grant support would

continue but slowly diminish as LACs settle on a fee-model that best suits their needs.

Stimulate court cases. Court cases should remain a central tool in resolving land-related issues. They protect farmers' rights by — for example — ensuring contract terms are fulfilled. They also strengthen the rule of law by holding powerful figures, like hukumat officials and investors, to public account for their actions in ways that mediation and arbitration cannot. Future projects should stimulate court cases throughout Tajikistan, but especially in southern regions where social, legal, and cultural factors have thus far hindered LACs in meeting their full potential for courtroom work.

Help farms create grassroots associations. Future projects should support the development of grassroots associations of dehkan farms that give members independent agronomic, accounting, and legal support based on good policy rather than local government dictates. Such groups could provide an alternative to the current dehkan farm associations, which are usually controlled by local governments and interfere with the freedom to farm. These new associations could contract legal aid centers to provide legal assistance to their farmers.

Identify and build on legal lessons learned. Using a case management system, future projects should collect and analyze data on legal problems throughout Tajikistan. Such information could beneficially inform policy

and legislative changes and improve the advocacy of LACs.

Increase focus on third-party arbitration. Given the passage of the Third-Party Arbitration Law in April 2008, future advocacy work should use this tool whenever possible to resolve land-use disputes more quickly and cost effectively than could be done in court.

Use customized materials to target women. The recent redesign of project brochures to include simplified language, more pictures, and less text is one example of how to make materials appealing to women.

Continue focus on cotton-growing areas. Project results show that farmers in cotton-growing areas suffer more from farm debt and government interference than those in non-cotton areas. Future work should retain the current focus on these parts of the country.

Build relationships with local governments. Future projects should continue to offer local government officials training to improve their legal knowledge and should cultivate cooperative relations between officials, LACs, and tashabbuskor to further reform.



In many parts of Tajikistan, local governments compel farmers to plant up to 95 percent of their land with cotton, and families keep children out of school during harvest season in order to manage the work.

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