A local farmer watches water flow to his crops after completing a small irrigation canal.
Mastona Qulova, the first woman to create her own dehkan farm in the Qumsangir rayon of the Khatlon oblast, surveys her wheat crop.
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Many farmers, especially women, do not know their land use rights. This lack of awareness creates an even greater need for project-supported legal aid centers.
Spanning Kyrgyzstan and Tajikistan, the USAID Land Reform and Market Development Project II (LRMDP II) was a one-year follow-on project to the initial Land Reform and Market Development Project, which ran from September 2005 through October 2008. The project addressed land policy and public outreach to stimulate the growth of an effective land market. While the Kyrgyzstan project closes in April 2010, the Tajikistan project ends in December 2009.

In Tajikistan the project has strengthened and protected land rights by (1) assisting the Government of Tajikistan in developing land-related policy and legislation, (2) empowering farmers with information to assert their rights over land, and (3) supporting regional legal aid centers and tashabbuskors (rural land activists) in educating farmers on their rights, providing mediation, and advocating on behalf of farmers’ interests in court.

In preparing land policy discussions with the Government of Tajikistan, the Donor Coordination Council requested that LRMDP II prepare a list of laws requiring amendments, along with a brief description of each law’s deficiencies. The project prepared a document that became the basis for the Land Market Development Strategy, which has guided land reform.

LRMDP II provided technical assistance to the Working Group on Structural and Land Reform to draft amendments to the Land Code to allow ownership of land use rights for the first time in Tajikistan. The proposed amendments also provide for the explicit right to engage in the purchase, sale, gift, exchange, mortgage, and other land transactions without the consent or interference of state authorities as well as for court proceedings for withdrawal of land use rights (eminent domain) for state or public need when parties cannot agree.

These proposed changes to the Land Code facilitate the transfer of land use rights, which enables the most profitable and productive users to put land to its best use. Such provisions are essential for the development of a mortgage market that will increase credit access for dehkan (peasant) farmers.

LRMDP II actively engaged with other international donors and contributed to recommendations for improving other land-related legal acts, including the Law on Dehkan Farms, the Law on Mortgage, and the Law on State Registration of Immovable Property.

The cornerstone of LRMDP II’s approach to inform farmers and local authorities of their land rights and obligations has been to disseminate information through a network of six regional legal aid centers. Centers operate as hubs for 40 tashabbuskors who organized monthly roundtables for farmers and invited participants from the local and district authorities. Discussion topics included basic legal rights to land, protections against state intrusion, procedures for filing complaints, and Presidential Decree No. 663 on writing off certain cotton debt. The project engaged the network of legal aid centers and tashabbuskors in disseminating information to farmers and created brochures about insuring dehkan farm property, land legislation basics, and the Law on Dehkan Farms and Procedures for Debt Resolution. The latter informs dehkan farmers on how to extricate themselves from attempts by local government and investors to wrongfully exact payment of debts for which they are not liable.

The project’s monthly newspaper, distributed to 1,500 recipients, featured land-related news and articles about farmers defending their rights. As a member of the Legal Aid Center Coordination Group, LRMDP II distributed 10,000 informational brochures to farmers. To reach even more, LRMDP II produced and aired Your Right to Land, a nationwide series of 29 radio and 20 television programs on settling land disputes, farm reorganization, and “freedom to farm” legislation.

The project’s legal aid centers provided mediation and direct legal services to thousands of farmers, intervening in nearly 400 disputes through arbitration, roundtables, and other means. LRMDP II assisted in 73 court cases involving issues such as inheritance, misallocation of land plots by local government, refusal to allow access to a plot, and penalties imposed by local
government for alleged non-use of a land plot, and improper debt. To date, the court ruled in favor of 39 cases (53.4 percent) of LRMDP II’s clients, and 34 cases (46.6 percent) are pending.

As a direct result of the project outreach program and onsite activities of the tashabbuskors, nearly 50,000 rural citizens have received assistance through training and consultation. More than 10,000 farmers have directly benefitted in outcomes of project-supported court cases and 1,561 farmers have been relieved of over 8 million somoni in illegal debt. Project experts helped achieve these results in part through mentorship and training of local specialists.

LRMDP II assisted legal aid centers to improve their capacity and sustainability through training in business plan development, legal and managerial skills, and fee-based legal services for farmers who have the ability to pay.

USAID has been instrumental in not only helping the government formulate land policy, but also in assisting in farm reorganization, obtaining land use rights, and settling land disputes. As the land market in Tajikistan develops and land use rights are freely bought and sold, those empowered to use the land in the most profitable manner will do so to the benefit of the rural economy.

**Key Results in Tajikistan**

- The project provided the basis for the Land Market Development Strategy that has guided land-reform efforts in Tajikistan.
- Ministries are considering project-supported amendments to the Land Code that provide for ownership and exchange of land use rights.
- A total of 49,172 citizens received direct assistance through LRMD II outreach, training, consultation, and representation activities.
- The project produced and broadcasted *Your Right to Land*, a nationwide series of 29 radio and 20 television programs.
- The project newspaper *Source of Wisdom* published 12 issues and distributed 18,000 copies.
- Of 73 cases filed on behalf of 10,672 farmers, the court ruled in favor of 39, with 34 cases pending or under appeal.
- The project helped 1,561 farmers cancel more than 8 million somoni of illegal or improper debt.
- Legal aid centers successfully mediated 325 out of 393 disputes outside court.
- A total of 153 farmers received land use certificates and 10,341 received sub-certificates.
TAJIKISTAN

Background

The economic prosperity of a nation and its people is directly linked to the effectiveness of its legal framework and land rights have long been recognized as a principal source of wealth and wealth generation. Since the end of the civil war in 1997, Tajikistan has been transitioning to a free market economy, including a market in land use rights. Private property rights are the major source of national wealth, and proper land administration lies at the heart of good governance. When states prosper, they promote widespread and secure land rights as a foundation of social and economic policy. This is especially true in a country such as Tajikistan, where agriculture is of paramount importance to the economy. The development of a rural land market will contribute to the creation of a sound agricultural sector, increased food security and societal stability, and improvement in the quality of life for farmers and their families.

The development of such a market has been hindered by Tajikistan’s prominent cotton sector’s declining profitability and stifling debt to investors, interference in farm operations by local governments, and an absence of coherent national land policy. Collaborative efforts between the donor community and the Government of Tajikistan have led to the concept of “freedom to farm,” the predominant theme of Presidential Decree No. 111, “On approval of a plan of measures for cotton farm debt resolution in the Republic of Tajikistan for 2007-2009,” and Decree No. 312, “On resolution of cotton growing farms’ debts and improvement of financial conditions for agricultural producers in the Republic of Tajikistan.” Pursuant to the “measures” annex of Decree No. 111, Parliament adopted significant legislation in 2008 with the assistance of USAID and other donors, including an amended Land Code, a Law on Mortgage, and a Law on State Registration of Immovable Property and Rights to It.

These legislative improvements are important, but irrelevant if not enforced. National land policy and legislative changes require farm restructuring and issuance of land use rights certificates at the local level. Furthermore, the law requires a reduction in local government interference in farmer decision-making. The lack of education and awareness, however, has created a gap between national policy and local enforcement. Citizens, many local government officials, lawyers, and judges are still largely ignorant of specific rights and duties and the legal basis upon which these rights are founded. Advocacy programs, such as the LRMDP II, have mitigated this situation and direct legal assistance to rural citizens has increased understanding that has led to forward movement with positive outcomes. Nevertheless, a market for land rights will not develop without continued vigorous programs to inform government officials, lawyers and judges, and local citizens of their rights and obligations, and to monitor enforcement of policies and laws. There will still be occasion for citizens to require remedial action in support and protection of their rights to ensure land reform proceeds.

Project Objectives

The project sought to accomplish these following objectives:

- Assist in the development of market-oriented land-related policy and legislation;
- Facilitate the proper implementation of land reform and the farm restructuring process; and
- Increase the awareness and understanding of the rural population by providing public information and legal aid.

LRMDP II fulfills a vital contribution in support of the Government of Tajikistan in establishing private secure land use rights and creating a land market.
Support for the Development of National Land Policy

In 2006 under LRMDP I, a Working Group on Structural and Land Reform was established in part to develop the legal and regulatory framework for the amendment and enforcement of the Land Code in Tajikistan. However, with the advent of LRMDP II in fall 2008, the working group was not functioning at its fullest potential. The working group’s meetings were irregular and several active members from the international community had recently departed Tajikistan. Under the leadership of the chief of party, LRMDP II reconstituted the working group and continued its work on the legal framework for a land market by including members from key Tajik government agencies and international donors.

Tajik lawyers have differed in opinion over whether or not the Land Code allows sale/purchase, gift, exchange, and other market transactions, because the general term “transfer” as found in Article 19 is vague. Although Article 19 specifically mentions mortgage and lease, it does not address other allowable types of market transactions. In January 2009 the Donor Coordination Council determined that the working group should focus on amending the Land Code to state explicitly that a right of primary land users is to engage in transactions such as purchase/sale, gift, exchange, and inheritance, in addition to such transfers as mortgage and lease.

It was difficult to further the work of amending the Land Code without a directive from the president of Tajikistan. The Donor Coordination Council therefore intervened with a letter to Vice Prime Minister Murodali Alimardon in January 2009 stating:

> Given the extremely difficult situation in the agricultural sector in Tajikistan and the large unemployment in the rural population, the Donor Coordinating Council urgently recommends that the Government of RT take the necessary steps to provide land users with the right to purchase, sell, and otherwise alienate their land use rights in accordance with market principles and international best practices. (emphasis in the original).

A second letter was issued in March 2009 following a strategizing meeting between the Donor Coordination Council Secretariat and the LRMDP II chief of party. The letter recommended the development of a properly sequenced package of land market legislation and pointed out that farmers were unaware of their rights, especially regarding mortgages, which placed them at significant risk until they could secure tenure in land use rights. The missive urged that legislative work be assigned to the working group.

In April 2009, the president of Tajikistan included the following in his annual statement to Parliament:

> A land certificate market should be formed and an effective functioning of it should be organized, and also activate a process of reform for private market relations... Therefore, the Ministry of agriculture, melioration and water resources, the Agency for land management geodesy and cartography, the Academy of agricultural science together with corresponding ministries and agencies, regional executive bodies of government authority, cities and rayons need to take measures to reinforce the legislative foundation for a new period of reform for agricultural sector.

This is an unequivocal statement to Tajik government ministries and agencies that the creation of a market in land use rights is of high political priority.
The Donor Coordination Council requested that the LRMDP II prepare a list of laws that needed amending with a short statement for each law describing its deficiencies. This document served as the primary text for the council’s document, “Land Market Development Strategy,” which became the basis for review and approval at a meeting between the Donor Coordination Council and Vice Prime Minister Alimardon. At this meeting Vice Prime Minister Alimardon presided over the working group – headed by the Legal Advisor to the Tajik President’s Administration, Khursandmurod Mirzoev – who convened weekly meetings to develop amendments to the Land Code and other land legislation. The Government of Tajikistan and the council established an Action Plan, with substantive input by the LRMDP II and the working group, ultimately prioritizing amendment of the Land Code in alignment with market principles.

The Donor Coordination Council asked the LRMDP II to draft a list of principles to guide the working group during the Land Code amendment consideration process. The chief of party prepared this document, which was distributed to donors and working group members.

**Drafting Key Land Legislation**

The LRMDP II coordinated meetings and two retreats to consider proposed amendments to the Land Code, which included an extensive set developed by project lawyers. After thorough analysis and vigorous debate, the working group accepted many market-friendly principles that the project advocated, the most important of which allow for:

- Ownership of land use rights;
- The right to engage in purchase, sale, gift, exchange, mortgage, and other transactions without the consent or interference of state authorities;
- Court proceedings for withdrawal of land use rights (eminent domain) for state or public need when parties cannot agree;
- Provisions in the proposed amendments allow for transfer of land use rights so that the most profitable and productive users can put the land to its best use. These provisions are indispensable for the development of a mortgage market that will increase credit access for dehkan farmers.

The government received the proposed amendments in August and distributed them for review among Tajik ministries and agencies in September. The project organized their feedback and comments in October for presentation to the Tajik Parliament. Concurrently during this process, LRMDP II and the Swedish International Development Cooperation Agency (SIDA) have been making presentations on the proposals to the Donor Coordination Council. SIDA has also made presentations to inform officials of the Government of Tajikistan. Currently, the working group is...
addressing responses to issues raised by ministries and agencies and submission of the final amendments is pending.

Although the 2008 Law on Mortgage promised farmers alternative credit opportunities, the law lacks protections for debtors, and most importantly, does not provide for transparent foreclosure, an opportunity to cure before foreclosure, or protection against a lender seeking to collateralize pre-existing debts. To offer safeguards for debtors, LRMDP II drafted a Resolution on the Mortgage of Land Use Rights, which clarified that any agreement for out of court disposition of the land use rights, on account of default in the pledge obligation, must be made after the default has occurred. It is a standard safeguard for debtors not to allow exceptional foreclosure procedures to be defined before default. The project made a presentation on these credit issues and the need for amendments to the Law on Mortgages to the recently established Working Group on New Financial Mechanisms. This presentation was part of a program to move toward commercial-based financing in the agricultural sector.

The project actively engaged with other international donors and has contributed to improving the Law on Dehkan Farms, Law on Mortgage, State Registration of Immovable Property, and other legal acts. The legislative proposals introduced during this project fully encourage a formalized land market and will support access to credit for farmers while providing the protections that debtor/mortgagors are entitled to without compromising the basic rights of lenders under mortgage agreements. Through its legal aid centers, LRMDP II has begun to monitor the implementation of the legal framework and notes that there have been 73 land transactions during the course of the project: 66 leases, 6 exchanges, and 1 purchase/sale. A lease market is developing faster than a purchase/sale market, which represents the first step in the establishment of a market for land use rights.

### FARMER EDUCATION AND LEGAL ASSISTANCE

**Background**

Although legislative change has wrought notable progress, Tajikistan is still in the nascent stages of land reform and farm reorganization. Many citizens are still unaware, however, of the new reforms and how these will affect them. Those who take advantage of the reforms often require assistance in resolving issues and disputes.

Discussions with farmers reveal that local government agencies continue to intervene in farm operations and that a significant number of farmers are still not aware of their rights. The issue of "freedom to farm," as reflected in Presidential Decree No. 111, spells out farmers’ right to use their land as they see fit and to sell their products to whomever they choose without government
interference. Many are still encountering difficulties with land share allocation as well as the monthly payment of social taxes since revenue to pay taxes is tied to post-harvest income from the sale of their products.

In some cases, farmers have not received payment for their labor on kolkhozes (collective farms), and when they have refused to return to the fields, their electricity and water was cut off. In other cases, bureaucratic delays have stalled privatization of land use rights. There have also been disputes among farms created during the reorganization of larger farms, particularly over distribution of land and allocation of land shares. Obtaining financing on reasonable terms is still problematic for many.

Farm debt persists as a major problem and many farmers continue to pay debts wrongly allocated to them during farm reorganization. With the adoption of Presidential Decree No. 663 in May 2009, the Government of Tajikistan may write off certain cotton debt, making it critical that farmers know their rights and understand that they are under no obligation to pay these debts. LRMDP II thus identified opportunities to educate farmers and local officials on the new legislation. To facilitate this process, LRMDP II arranged training of trainer sessions in the Khatlon and Sughd regions on government write-off of cotton debt.

Educating Farmers in the Field

Role of the Legal Aid Centers and the Tashabbuskors

The cornerstone of direct assistance to farmers in educating them in the exercise and enforcement of their land rights is the network of project-supported regional legal aid centers. These centers provide legal consultations, represent farmers both in and out of court, provide seminars on land rights, and conduct roundtables and training for local administrative authorities. Continuing the successful efforts under the LRMDP I, the project provided geographically diverse support to three legal aid centers in the Sughd district in the north and three centers in the Khatlon district in the south. These centers operate as the hub for 40 tashabbuskors to ensure the widest geographic distribution of project assistance. The project provided special coverage to the Shaartuz region in the south where citizens had reported extraordinary difficulties with “freedom to farm” and extreme governmental interference.

Training of Field Offices and Local Government Officials

To build local capacity, LRMDP II held education and training sessions for legal aid centers and tashabbuskors, regional legal aid center coordination meetings, and training for public officials. The project led two one-day orientation conferences for centers and tashabbuskors in their respective regions to communicate project objectives, instruct them in their expected roles and responsibilities, and explain materials and support. Orientations were attended by 28 representatives from legal aid centers, 40 tashabbuskors, and four members of the media.

To create additional synergies, legal aid centers held monthly coordination meetings in which they exchanged information on activities, particularly court cases, allowing centers to reference experiences of others in similar cases. For example, the lawyers for the Ilhom legal aid center drew upon the experience of the Zanoni Dehot and Bonuvoni Fardo centers to obtain a court order to formally annul a decree of a local government agency for the first time.
The project continued to increase awareness of local government representatives regarding changes in land legislation to reduce their interference in farmers’ activities. Decree No. 111 and “freedom to farm” principles were an ongoing topic of discussion. Most of the training of the hukumats (regional governments) and jamoats (town governments) occurred during monthly roundtables conducted by the tashabbuskors in each of their districts. Many of the tashabbuskors set up offices in the jamoat buildings to facilitate a daily exchange of ideas and transfer of information between government officials and project partners.

The project has also provided demand-driven education and legal counsel. In August 2009, the tax inspection department of the Shaartuz rayon (district) of Khatlon region organized a meeting with farmers in the jamoat J. Nazarov asking them to sign documents to repay debts of kolkhozes that had been reorganized long ago. Tax officials had visited farmers at their homes late in the evening to collect their signatures in agreement to repay debts. The project dispatched its lawyer for that district to Shaartuz to present the tax inspection department with a copy of Presidential Decree No. 663 and to discuss with the inspectors the policy decision-making in progress at the national level on government write-off of certain cotton debt. The lawyer further explained to the legal aid center that, pending establishment of procedures for debt write-off, farmers should sign no agreements to pay old debts.

*Provide Direct Education and Training to Farmers*

In helping farmers understand their rights, the project furnished direct assistance via its network of legal aid centers and tashabbuskors. Each tashabbuskor arranged a monthly roundtable to discuss local issues and solutions to problems identified during field visits. Attending the roundtables were
farmers, representatives of *hukumats*, *jamoats*, the tax department, land committees, water associations, and others.

Discussion topics included the following:

- Farmers’ basic legal rights to land
- Conducting land transactions
- Benefits of obtaining legally registered ownership rights
- Protections against state interference in farming operations
- Steps farmers take to withdraw their parcels from the collectivized structure
- Filing complaints for violations of legal rights
- Presidential Decree No. 663 on the writing off of certain cotton debt
- Procedures for the Government of Tajikistan’s cotton debt resolution

The *tashabbuskors* held meetings to inform farmers of land rights, distribute brochures, and discuss problems that affect rural citizens. Farmers called on *tashabbuskors* directly at their offices for one-on-one consultations regarding land use rights and difficulties they were experiencing. *Tashabbuskors* could often solve the problem but those they could not were directed to the regional legal aid centers for assistance by staff lawyers. The *tashabbuskors* also identified topics for training led by the centers. The project local offices provided resources and assistance for training events as needed.

In addition to direct assistance, the project relied on the network of legal aid centers and *tashabbuskors* to disseminate information directly to farmers. The project coordinated with other donors to develop and distribute information on property insurance, legal insurance norms, forms of insurance agreements for agricultural production, and sample insurance contracts. The project disseminated more than 10,000 brochures as part of the Legal Aid Center Coordination Group. The centers also provided 2,225 farmers with a brochure, “Taxation of Dehkan Farms,” designed and written by the project, and 2,000 copies on “New mechanisms of DF financing,” prepared by the Asian Development Bank and printed by the United Nations Development Programme for direct distribution to farmers. The project has collected more than 600 responses to the Cotton Farmer Survey developed and coordinated by Department for International Development and the Donor Coordination Council during spring planting and again after harvest.¹

¹ An interesting conclusion of the Cotton Farmer Survey is that “donor programs that have included awareness components related to ‘freedom to farm’ are successfully reaching out to farmers.”
The LRMDP II brochure on land legislation contains a compilation of land-related laws including the competence of hukumats, jamoats, and the Land Management Committee regarding land and property legal relations; the Land Code; the “freedom to farm” Resolution No. 111; the Law on Dehkan Farms; the Law on Land Management; the Law on Local Government Agencies; the Law on Reorganization and Reform of Agricultural Enterprises; and the 2009 Presidential Decree No. 663 on writing off certain cotton debt along with the Action Plan.

The project-produced brochure, “Comments on the Law on Dehkan Farms,” discusses the legal basis for the creation and operation of dehkan farms, including relations between farm members; organization and governance of dehkan farms; the authority of heads of dehkan farms; and the relationship between dehkan farms and other enterprises and state management agencies. The comments highlight the right of rural citizens to freely conduct and manage their own agricultural activities without unreasonable interference from the local governmental authorities.

A timely and relevant brochure, “The Procedures for Debt Resolution,” was produced and delivered to legal aid centers and local government officials at the training of trainer sessions on the same topic in the fall of 2009. The project also prepared brochures on restructuring and creation of agricultural organizations, which includes information on how to obtain land use certificates, taxation of dehkan farms, inheritance, and the different types of contracts farmers may encounter.

**Outreach through Media**

Results from a survey made during LRMDP I showed that farmers learn the most about land reform and land rights through media coverage provided by the project. To expand LRMDP II’s reach of the program to farmers outside of the network of legal aid centers and tashabbuskors, the project produced and aired 29 radio and 20 television programs entitled Your Rights to Land. Program topics included settling land disputes, the farm reorganization process, and “freedom to farm” legislation. Feedback following television and radio broadcasts indicated a broad viewer and listener audience of farmers. The project’s main office received 377 phone calls in search of a legal aid center in the caller’s immediate area. Television broadcasts covered these topics:

- The creation of dehkan farms and issuance of land shares;
- The presentation of brochures produced by the project;
- For Khatlon region, a program covering activities of legal aid center partner Zanoni Dehot;
- For Sughd region, a program covering the training of trainers for judges and lawyers as well as other center activities in the region;
- The role of tashabbuskors in a transparent land reform process;

### Most Frequent Consultation Topics

- Taxation
- Dehkan farm creation/reorganization procedures
- Types of contracting mechanisms
- Inheritance procedures
- Rights and obligations of dehkan farms

Farmers learn about agricultural financing mechanisms from a brochure produced by LRMDP II.
- The land reform process in Sughd oblast;
- The farm reorganization in Bokhtar rayon of Khatlon oblast;
- The advantages of the new types of farms;
- Problems farmers face when concluding contracts with investors.

The project produced 12 editions of its own newspaper with a circulation of 1,500 copies per edition. Readers found the paper’s question and answer section very practical for its discussion of broad issues such as land parcel leases, land parcel certificates, who pays the land tax: the lesser or the lessee, and use of a land parcel before state registration. In addition the media covered all project events including roundtables, training of trainer sessions, and seminars.

HELPING FARMERS ACCESS LEGAL SERVICES

Empowering Legal Aid Centers to Better Assist Farmers

The project trained legal aid centers in legislative changes, drafting, execution, and enforcement of contracts, effective court practices, and the recent Presidential Decree No. 663 to write off certain cotton debt.

Roundtable meetings were held in Sughd and in Shaartuz in the Khatlon district to field questions on a recent resolution requiring monthly payment of additional social taxes by dehkan farmers for each shareholder. Tax committee heads, hukumat representatives, legal tax experts, and dehkan farmers took part. An informal accord resulted from one roundtable to amend the tax legislation so that dehkan farmers can make payment after the harvest.

To enhance prospects for sustainability of legal aid centers to support rural citizens in the long term, training of trainer sessions addressed preparation of project proposals, how to develop methodologies, organize the tashabbuskors, and administer monitoring and evaluation systems.

Training of Lawyers and Judges in Pilot Program

The project conducted an in-depth training program to improve the legal skills of lawyer and judges in addressing recent land legislation in court. Participants received training in methods for drafting contracts between dehkan farmers and investors on financing agricultural operations, procedures to abate wrongful transfer of debt, and best practices for court resolution of land rights disputes. A seminar in Khatlon and Sughd districts covered land use rights allocation procedures and measures for subsequent alienation pursuant to legal civil agreements. This seminar also addressed the insurance of the property of agricultural enterprises, 2008 land legislation, and court practice. In June 2009, private practice lawyers and judges were introduced to the new Presidential Decree No. 663 on the writing off of certain cotton debt. The legal aid center lawyers, together with the private practice lawyers and judges, designed court practice training to align lawyers’ skills with the new legislation.

The Importance of Education

The project received a letter from Kurbanov K, head of the jamoat and all dehkan farms of “Yakkadin” of Qumsangir rayon, Khatlon oblast dated July 16, 2009. The letter expressed appreciation for the assistance in improving the legal knowledge of both the farmers’ and representatives of the jamoat. The letter maintains that training for farmers and representatives of hukumats, the roundtable meetings, and the one-on-one consultations provided by the Zanoni Dehot legal aid center have been of the utmost use for the citizens and have helped them find solutions to many problems.
As part of this training program, the project prepared a toolkit consisting of a manual for resolving land disputes in the Economic Court and a pictographic guide for non-readers, *Visual Aids for Advocates*, on how to file a complaint. The project also made presentations on how to develop a winning court strategy and how to write clearly for the court. The pictorial visual aids included key land legislation upon which to base winning arguments, and all lawyers and judges trained as trainers received a copy of a letter from Parliament stating that the distribution of old debt in farm reorganizations is not allowed. These lawyers and judges received pleadings from the large debt case *Dehkan Farm Ahmadaliev and 24 Other Farms v. Local Government of Spitamen Rayon* where the court found that 7,785,360 somoni had been wrongly imposed on new farms.

To build local capacity, LRMDP II lawyers worked with local lawyers and provided consultation for court cases. In one particular instance in Sughd district, 8,000 farmers had created a closed joint stock company and registered it with the Ministry of Justice. Thereafter, wealthy local businessmen forged changes to the charter at a notary office, making the company an open joint stock company. The project senior legal advisor counseled farmers on where to find evidence that the charter amendments were forgeries, which helped the farmers to procure the original documents; the case remains pending. As a result, lawyers now understand how to obtain documentation to support legal positions in court.

**Legal Representation of Farmers**

The project’s six legal aid centers provided mediation and direct legal services to thousands of farmers, who learned of these dispute resolution resources through project-sponsored field visits, monthly roundtables, and media program. The dispute resolution process begins with negotiation in which one of the parties to the controversy approaches a center with an issue. A lawyer from the center then meets with the opposing party to resolve the problem to the satisfaction of both. The centers have successfully mediated 258 disputes benefiting 372 farmers in the most common issues: taxation of dehkan farms, leasing of land between dehkan farms, the allocation of movable and immovable property during farm reorganization, legalization of property of reorganized farms, allocation of water rights by water management agencies, and interference by local government officials in dehkan farm activity.

**Representing Farmers in Court**

If parties cannot resolve their differences through mediation, the legal aid centers provided advocacy in the courts with support of project legal advisors. In sum, the project assisted in 73 court cases involving such issues as inheritance, misallocation of land plots by local government, refusal to allow access to a plot, and penalties imposed by local government for alleged non-use of a plot. The most common, and perhaps the most important, were cases in which debt was wrongly imposed on farmers during farm reorganization. In some cases, a dehkan farmer had been paying this debt, which had deprived the farmer of operating revenue. In one such case brought in Sughd district, the court eliminated more than 7,785,000 somoni in debt wrongly distributed among 25 farms formed out of the Dehkan Farm Ahmadaliev. In another prominent case against a very powerful investor in the Sughd region, *Dehkan Farm Sangin v. CJSC Olim Karimz*, the court held that debt in excess of 264,000 somoni that had been transferred to the predecessor of the Dehkan Farm Sangin did not affect the plaintiff after it was reorganized in February 2008.

### Results Achieved in Helping Farmers Access Legal Services

- 153 farms reorganized or created
- 10,341 rural citizens received sub-certificates with project assistance
- 73 court cases initiated on behalf of 10,672 farmers
- 1,561 farmers assisted in canceling more than 8 million somoni of illegal or improper debt
DONOR COORDINATION

Coordination with other international donors through the Donor Coordination Council was integral to the success of LRMDP II, particularly for the preparation of a land market development strategy. The project identified weaknesses in land legislation, advised on laws for inclusion in the “package of laws,” and prioritized those needed to support a land use rights market in the agricultural sector. LRMDP II assisted in developing the Land Market Development Strategy that was the basis for negotiations with the Government of Tajikistan in establishing an Action Plan to further develop the legal framework in alignment with market principles. While working on land legislation, LRMDP II collaborated with the European Commission Technical Assistance on Land Reform and Agricultural Policy (EC TALRAP) project, the SIDA Cadastre project, the World Bank Cadastre and Land Registration System Project, and the Donor Coordination Council Secretariat.

The Legal Aid Center Coordination Group coordinated the exchange of information and activities among all the centers including those working with other donors. The coordination group meetings were regularly attended by representatives from the Donor Coordination Council Secretariat, the Swiss Agency for Development and Cooperation Helvetas, the Agency for Technical Cooperation and Development, Mission East, Market Plus, the Organization for Security and Co-operation in Europe, Arbitrage, EC TALRAP, UNIFEM, and Support to the Establishment of a National Advisory Service (SENAS). The major achievement of the Legal Aid Center Coordination Group was the creation of a map for 2009 showing the locations of donor-supported legal aid centers and a listing of the 72 legal aid centers and 27 extension service centers. The project also contributed success stories from the centers for the European Union Technical Assistance to the Commonwealth of Independent States’ SENAS project.

IMPACT AND SUSTAINABILITY

Throughout 2009, LRMDP II has set the course for broadening the legal framework to create and develop a land market in the country. Through the project’s close contacts with the members of the Government of Tajikistan, the project has discerned obstacles to furthering the reform of the agricultural sector at the policy and implementation levels. This has allowed the project to assist donors in forming strategies for negotiation with the Tajik government. Furthermore, LRMDP II has laid the foundation for development of the “Land Market Development Strategy” leading to the Action Plan in Resolution No. 406.

The influence of the project is unquestionable in the development of a legislative package that has led to concrete proposals for amendments to the Land Code. LRMDP II was the driving force reestablishing the working group, scheduling its meetings, formulating meeting agendas, and preparing initial drafts of the amendments. Because of the support from USAID and the project, the working group easily kept to the Action Plan schedule for proposed amendments to the Land Code. As a result of consistent performance, the Tajik government will expect more of the working group and the donor community in the coming months. To continue performing at the same level, future donor projects must actively participate in the working group.

Elements necessary to form a land market are slowly coming together in Tajikistan. Presidential decrees have reinforced the political will demonstrated to reform the agricultural sector; however, it remains to be seen how broad and deep this political will extends throughout the ministries and members of Parliament. It is up to the Parliament to take positive action and adopt the proposals of the working group; as legislators begin debate over proposed amendments, the task of the working group and the donor community is to act as watchdog and to lobby as needed for change toward a market framework as mandated by the Tajik president. The Tajik government members of the
SUCCESS STORY
Empowering Women through Farm Management

Legal aid centers help restructure and improve farm management

Mastona Qulova, the first woman to serve as farm director in Qumsangir, is interviewed for USAID’s Your Rights to Land – a weekly television and radio program broadcasted throughout Tajikistan.

USAID’s Land Reform and Market Development Project II is a leader in promoting 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.

According to Mukarrama Egamnazarova, head of the USAID-supported Zanoni Dehot legal aid center, women account for approximately 85 percent of the labor force on dehkan farms in Khatlon oblast, yet very few women serve as farm directors. Zanoni Dehot has restructured and created 32 new farms since December 2008 in Khatlon, including the Davlatyor farm – the first farm led by a woman in Qumsangir rayon. With support from the USAID Land Reform and Market Development Project II, legal aid centers like Zanoni Dehot are helping farmers to better understand their land use rights and obligations by providing training, organizing roundtables, delivering legal consultations, and assisting with farm restructuring in Tajikistan.

Following a training session for farmers in the Qumsangir rayon, participants posed questions to Zanoni Dehot lawyer Tohir Malikov. Among them was Mastona Qulova, who expressed interest in creating her own farm. Her colleagues at the Davlatyor farm supported her initiative, so Tohir led Mastona and the Davlatyor farm through the restructuring process – from organizing the general meeting of the shareholders to the registration of the farm with the authorities.

Mastona has now served as head of the farm for more than six months and shareholders report that they are pleased with her management abilities. Members are able to keep more of their hard-earned income and receive more generous amounts of grain, rice, watermelon, and other agricultural production.

The USAID radio and TV program Your Rights to Land shared Mastona’s story with a national audience as an example of the role women can play in farm management. Since the broadcast, more women have contacted Zanoni Dehot and other USAID-supported legal aid centers for information and assistance on farm restructuring.

Farmers in Tajikistan will continue to face challenges as the land reform process reform continues, but thanks to the legal assistance provided by the USAID Land Reform and Market Development Project II, farmers will continue to have access to high-quality legal services to help secure and exercise their land use rights.
working group should make this their priority. They have agreed to support the proposed changes in the Land Code, but there is a question as to how aggressively they will advocate for these changes. Experience suggests their support will be more or less passive unless driven by outside forces. Further donor support for the working group should consider this a primary activity.

Of note is the development of the black market in land use rights. Thus it is critical that the Government of Tajikistan and the Parliament adopt legislative proposals to support the legitimate market. Authorities will need to develop proper forms for market transactions, provide for registration of private civil agreements on land use rights, and actively encourage formalization of all land transactions. The legal aid centers supported by the project have already engaged in the formalization of land use rights. With project assistance, land use certificates were issued to 153 farmers while 3,725 have received sub-certificates.

As a direct result of the project outreach program and the onsite activities of the tashabbuskors, almost 50,000 rural citizens have received assistance through training and consultation. More than 10,000 farmers have directly benefitted by project-supported court cases, and 1,561 farmers were relieved of 8 million somoni in illicit debt. The results could only have been achieved by increasing the knowledge and skills of the local specialists who were trained and mentored by the project experts.

At the heart of this project has been support to the legal aid centers in the Sughd and Khatlon regions – four of which received support from LRMDP I and have the best prospects for sustainability. Both Saodat and Citizens Rights have proven their abilities to be effective farmer advocates. As information has become available to rural citizens, they have not only sought help from legal aid centers, but have shown a willingness to pay for services. Nevertheless, without continued support, it would be misleading to say that any of these legal aid centers are self-supporting.

Interestingly, the Ilhom legal aid center, with offices in Kulyob, has developed a good reputation in the south and has successfully closed nine court cases on behalf of farmers. Two cases involving Ilhom are still pending. In part, this success can be attributed to the support the Ilhom center received during LRMDP I and the continued support during LRMDP II. It has the greatest prospects for moving toward sustainability over time if it continues to receive support in the short term.

During LRMDP II, all legal aid centers received training in writing project proposals as well as aid to establish and maintain monitoring and evaluation systems. The hope and expectation is that as farmers become more familiar with the work of the centers, they will seek advice and services and be willing to pay a reasonable fee. As procedures are finalized for debt write-off pursuant to Presidential Decree No. 663, there should be an opportunity for the legal aid centers to benefit financially. Dehkan farms should be well prepared to pay a small fee to eliminate large debts,
which will require the centers to formulate a reasonable price structure for the services, which may even include paying moderate fees in installments.

As farmers become more familiar with their rights, they are more confident in taking advantage of the resources available to assert those rights. USAID has been instrumental in not only helping the government formulate land policy, but also in providing assistance to farmers in farm reorganization, obtaining land use rights, and settling disputes. It must not be forgotten, however, that land reform is never complete in any country. Certain principles can and will be set in the initial stages, but market forces in land relations and land administration are ever changing. The legal framework as well as the implementation must be adjusted from time to time to align with these market forces. As the market develops and land use rights are freely bought and sold, those who are willing and able to use the land in the most profitable manner will do so, the rural economy will benefit, and the lives of all will be improved.

LESSONS LEARNED

- Donors should agree on the direction that the Government of Tajikistan takes to improve the agricultural sector.
- Donors’ resources for specific activities in the field should be leveraged whenever possible.
- The USAID network is the most organized and effective network for moving policy from the national level to the local farmer level.
- The network of the legal aid centers and tashabbuskors is developed, informed, and can deliver information and advocacy at the local level, including to farmers and local government officials.
- Communication among donors is instrumental in identifying where resources are most needed.
- Open communications among donors regarding financing agricultural sector activities can lead to the availability of more resources.
- LRMDP II has the relationships, the delivery network, and experience to present and leverage donor funds to effectively inform the agricultural sector.
- While LRMDP II greatly improved communication and logistics during the course of the project, there is still room for improvement in the donor community at large.
- While farmers are aware of their land rights, they find it difficult to exercise these rights owing to interference from local governments and other interested parties.
- Local governments and other state institutions often inhibit the legal aid centers from providing quality services.
- One of the legal aid centers’ most effective aspects is the legal representation. However, very few centers, other than those associated with LRMDP II, offer this service.
- Resolution of legal disputes through court cases increases farmer confidence in the legal aid centers and the rule of law.
- Despite constant monitoring and evaluation, legal aid center activities are not always transparent. It is possible that the same activities on separate donor projects are double billed for the work.
- Regular *rayon* level coordination meetings between donors, trainers, and representatives would help eliminate double reporting and billing.

- Increased training and mentoring of untrained legal aid center lawyers by the experienced center lawyers would increase success and farmer confidence.

- Training farmers through media has proven effective, but could be increased if documentaries of success stories accompanied training methods.

**FINAL PROJECT RECOMMENDATIONS**

- Support the development and implementation of land code regulations, harmonizing other legal acts with the land code, and amending the Law of Mortgage to provide more protection to the debtor. Other legislative activity should include a Law on Land Valuation and procedures for the withdrawal from *dehkan* farm.

- Support drafting of a commentary to the Land Code.

- Members of the working group from the Government of Tajikistan need training in legislative drafting to address recurring problems with consistency and clarity.

- Continue support for as many legal aid centers as possible since they have the best track records in defending farmers’ rights and have the best prospects for sustainability.

- Train lawyers in briefing cases so that they can easily communicate with one another and share data on the disposition of issues, including basic court case reporting.

- Support the establishment of a training center for young lawyers that addresses not only theoretical aspects of the practice of land law, but includes practical legal clinics, as well as a mentor program so that young lawyers can develop practical skills.

- Provide technical assistance to the Government of Tajikistan to finalize debt write-off procedures.

- Support the development and use of the Third Party Arbitration Court mechanisms pursuant to the new law of 2008 as an economical and simple alternative to resolving disputes in court.

- Increase the capacity and coverage of legal aid centers.

- Increase training of trainers for government officials, lawyers, and judges to keep them abreast of key policy and legal changes.

- Expand outreach efforts for farmers through increased legal aid center capacity so they can identify problems in the field, draft remedial legislation, and champion proposed amendments through the legislative process.