

# WOMEN'S RIGHTS

in the Course of the Land Reform in the Republic of Tajikistan



United Nations Development Fund For Women





UNIFEM is the Women's Fund at the United Nations. It provides financial and technical assistance to innovative programmes and strategies that promote women's human rights, political participation and economic security. UNIFEM works in partnership with other UN organizations, governments and non-governmental organizations (NGOs) and networks to promote gender equality. It links women's issues and concerns to national, regional, and global agendas by fostering collaboration and providing technical expertise on gender mainstreaming and women's empowerment strategies.

The "Women's Rights in the Course of the Land Reform in the Republic of Tajikistan" manual was developed within the frameworks of the UNIFEM project "Land Rights and Economic Security for Rural Women in Tajikistan". In the course of the manual development, the materials have been discussed with the specialists of the State Committee for land regulation, State Statistics Committee, Dekhan Farms and Entrepreneurs Union of the Republic of Tajikistan, and with the members of the Coordination Council by the Government of the Republic of Tajikistan, set up in support to UNIFEM project. It draws on the current codes and legislation of the Republic of Tajikistan.

"Women's Rights in the Course of the Land Reform in the Republic of Tajikistan" manual  
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# **WOMEN'S RIGHTS IN THE COURSE OF THE LAND REFORM IN THE REPUBLIC OF TAJIKISTAN**

Dushanbe - 2005

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**INTRODUCTORY STATEMENT BY MR. K. KOIMDODOV  
DEPUTY PRIME MINISTER OF THE REPUBLIC OF TAJIKISTAN  
CHAIRMAN OF THE COORDINATION COUNCIL**

**Dear Friends!**

The 1992 Land Reform is gaining momentum. Hundreds of state collective farms have been reorganized. They are transformed into dekhkan farms. The reorganization process has been a challenging task. We have to make adjustments to reform implementation mechanisms on the way, which, in February 2004, led to "Alterations and Amendments to the Land Code of the Republic of Tajikistan" Law.

The majority of our population resides in rural areas; therefore, the implications of the land reform will have a significant impact on the lives of all of us.

The land legislation constitutes a comprehensive regulatory and legal framework which is grounded in the Constitution of the RT and international acts, recognized by Tajikistan. It encompasses over 30 laws, about 100 regulatory and legal acts, including Decrees of the President Mr. E. Rahmonov and Resolutions of the Government of the RT.

President of the RT Emomali Rahmonov has charged government bodies, NGOs and international organizations with the task to ensure the land rights of rural population of the Republic in the process of land reform.

Although the Constitution and legislation of the Republic of Tajikistan stipulate gender equality, in practice, women often face challenges exercising their rights.

Undoubtedly, national customs and traditions play a role in this situation. Women are frequently not aware of their rights and do not know who to apply to protect that. In order to address these issues, the UN Development Fund for Women (UNIFEM) has been implementing "Land Rights and Economic Security for Rural Women in Tajikistan" project since 2003. Since the government of the Republic of Tajikistan has adopted and ratified international human rights documents that declare the principles of equality, including the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Coordination Council at the Government has been created to assist the project.

Developed by this UNIFEM project, "Women's Rights in the Course of the Land Reform in the Republic of Tajikistan" manual has been endorsed by the Coordination Council and will prove useful both for government employees and NGO sector working on this issue.

It is critical that all land reform stakeholders attend to their duties in a responsible and sound manner at the final stage of reorganization of rural businesses and organizations. In a concerted effort, we need to strive for human rights in Tajikistan to meet international standards.

**Deputy Prime Minister  
Of the Republic of Tajikistan  
Chairman of Coordination Council**



**K. Koimdorov**



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## INTRODUCTION

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UNIFEM, drawing upon the National development program of the Republic of Tajikistan, strives to contribute to poverty reduction by stimulating active economic participation of women, development of business skills, and increased awareness in order to protect their economic rights. The emphasis here is on the rights of rural women within the framework of the land reform launched in 1992.

The goal of the UNIFEM's project "Land Rights and Economic Security for Rural Women in Tajikistan" is to provide women with access to fundamental legal literature and real access to land in order to become an entrepreneur in a rural area. In addition, it is crucial to make improvements of land reform policies - in terms of affording equal rights and opportunities to men and women of the Republic of Tajikistan (RT).

The purpose of the manual is to create a fundamental guide with comprehensive information on land reform in the RT. The manual is designed for employees of executive bodies, managers of rural businesses and organizations, leaders of dekhkan farms, local government bodies: everyone involved in the process of the land reform and able to ensure women's land rights in Tajikistan.



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## I. LAND REFORM IN THE REPUBLIC OF TAJIKISTAN

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After gaining independence, the Republic of Tajikistan faced the necessity of political, economic, social and cultural reforms. Among others, the Government launched a step-by-step implementation of the land reform.

The objectives of the land reform in the RT are:

- to create favorable environment for equal development of various forms of farming;
- to build mixed economy in agricultural sector;
- to use land rationally and protect it in order to achieve
- agricultural production growth.

The essence of the land reform:

- land reform - is a combination of legal, economic, managerial and technical measures, that facilitate the transition to brand new land regulations in the RT.
- land reform management and implementation must ensure the rights of each individual and group to voluntarily select a form of land use and farming.

***In the Republic of Tajikistan  
land belongs to the state,  
and the state guarantees its  
effective use to the benefit  
of its people.***

***/Art. 2 of the Land Code of  
the Republic of Tajikistan/***

***Land reform implementation  
is regulated by the Law of  
the RT "About Land Reform  
(LR)", the Land Code, and  
other legislation of the  
Republic of Tajikistan.***

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## II. MAJOR POINTS OF LAND REFORM IMPLEMENTATION

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*/Art. 3 of the Law of the RT "About the Land reform"/*

The major points of the land reform are as follows:

- To conduct inventory procedure for the land by category, type of land ownership, land use and type of land. This process is aimed at getting a clear picture of available land and its distribution. It is currently at its final stage;
- To identify unused lands and lands not rationally used in order to create a special land reserve for executive bodies of city and district hukumats (local governments). The special reserve's lands could subsequently be re-distributed for a more effective use. Citizens of the RT, cooperatives, industrial companies, joint ventures, and other organizations set to work on agricultural production growth, could act as recipients of the land reserve. Individuals who are willing to set up a dekhkan farm, including those who move to other districts for permanent residence, need to submit an application to get a land plot from the special reserve to local government: jamoats, Hukumats in their area. The application must contain the purpose of use of a requested land plot, desired area and location, and a total number of able-bodied members.

*/Art. 14 of "About dekhkan farms" (DF)/*

A city, district local government makes a decision about allocation of a land plot within one month from the day application has been received. In case of non-compliance with the designated processing time or concealment of information about availability of special land reserve, responsible officials are made liable according to the law of the RT. Citizens of the RT who were denied a land plot by city, district local government, can take legal action.

Land plots are given as inheritable life estate to individuals for dekhkan and personal subsidiary farm, traditional local trade, gardening, horticulture, and, under exceptional circumstances - construction and use of residential facilities.

*/Art. 12 LC/*

Inheritable life estate means that the right to land use can be inherited by family members and other individuals. When inherited, this land is subject to re-registration.

However, the law does not stipulate rights and opportunities of women for inheritance or reimbursement of land share when a woman is getting married or divorced.

*/Art. 17, Art. 13 "About DF" Law of the RT/*

Sole proprietors and legal entities that hold the Certificate for the right to land use are considered to be land-users.

*/Art. 10 LC/*

Sole proprietors and legal entities could be primary and secondary land-users.

Primary land-users - are sole proprietors and legal entities that use land on a continuous, fixed term and inheritable life estate basis.

*/Art. 10 LC/*

Secondary land-users - are sole proprietors and legal entities that use land plots based on conditions of a leasing contract.

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*/Art. 14 LC RT/*

Primary land-users can lease land plots based on a contract up to 20 years.

A land leasing contract is signed without alteration of intended purpose of use of a land plot. Land leasing relations are conducted in accordance with law of the RT.

The land reform concept was mirrored on the model of reform implemented in the Republic of Azerbaijan with minor alterations. Azerbaijan introduced private land ownership, and land shares are allocated to each citizen living in a specific location. In Tajikistan men and women working on a reorganized farm, service workers living in a specific location and other individuals selected by general meeting of farm's members, have the priority right to land share and land use.

*/Art. 71<sup>3</sup> LC RT/*

Rural residents who own cattle are eligible for land plots to use for pastures and hayfields. The land from land reserves of jamoats, forestry reserves and that of agricultural organizations, etc. is allocated for this purpose. In order to get land, the following documents have to be filed: resolution of a jamoat's general meeting, agricultural organizations, district (city) chairmen.

Land tax for these lands is paid in accordance with the Tax Code of the RT.

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### III. RESPONSIBILITIES OF BODIES REGULATING LAND ISSUES

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*/Art. 4 LC RT/*

In the area of land use regulations Majlisi Oli of the RT is responsible for:

- a) approval and alteration of borders of tertiary geographical unit of administration (region, city, district);
- b) identifying territories with a special legal status of land use, setting up and altering their borders.

*/Art. 5 LC RT/*

In the area of land use regulation the Government of the RT is responsible for:

- a) land management (withdrawal and allocation) within the borders of the RT according to national goals, and in agreement with the appropriate local governments bodies;
- b) development and implementation of national and international programs to use land rationally, increase soil fertility, protect land resources in combination with other environment-oriented initiatives;
- c) coordination of activities of local government bodies to implement national programs on land use and protection;
- d) incorporating funding plan of land use and protection in the national budget and recommending it to Majlisi Oli of the RT;
- e) setting up borders of protected nature reserves in agreement with the appropriate local government bodies;
- f) land tax regulation and scheduling of lease payments;

*/"About alterations and amendments to the LC RT" Law of the RT/*

- g) management of land regulations, introducing and implementing state land cadastral valuation and monitoring;
- h) approval of land regulation documentation of national importance.

*/Art. 6 LC RT/*

National land regulation bodies of the RT are responsible for:

- a) management and implementation of land regulations;
- b) management of land cadastral valuation and monitoring;
- c) national monitoring of land use and protection, issuing instructions to remove identified violations of land laws;
- d) improvement of methods of land resource management within the current legislation;
- e) development of national legislation to regulate land issues;
- f) representation of the Government of the Republic of Tajikistan in international organizations in a designated order;
- g) ensuring intended use of resources to improve land condition;
- h) state registration of the right to land use and issuing documents in a designated order, that verify the right to land use, to land-users;
- i) suspension of any kind of construction, development of mineral deposits and peat, use of various facilities, forest improvement, prospecting, geodetic works, and prohibition of land use activities, if they violate land legislation;

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- j) proposing to National, local governments or courts to revoke acts contradicting land legislation;
  - k) suspension of execution of decisions about land plot allocation which contradict land legislation of the Republic of Tajikistan, until the decision has been made by the appropriate bodies (superior bodies of executive power, court);
  - l) settlement of land disputes about land use;
  - m) carrying out other responsibilities, as stipulated by the Government of the Republic of Tajikistan.

*/Art. 7 LC RT/*

In the area of land use regulation Hukumats of Gorno-Badakhshanskaya Autonomous region, other regions, cities and districts within their administrative borders, are responsible for:

- a) management and execution of land regulation, approval of land regulation documentation related to the work of regional importance; land cadastral valuation and monitoring;
- b) allocation of land plots for agricultural production;
- c) allocation, withdrawal and assignment of land for non-agricultural needs;
- d) enforcing rights of land-users;
- e) termination of the right to land use;
- f) state registration of the right to land use;
- g) state monitoring of land use and protection.

*/Art. 8 LC RT/*

In the area of land use regulation within the borders of rural settlements jamoats are responsible for:

- a) submitting proposals about allocation of land plots to city, district local government;
- b) allocation and withdrawal of homestead and personal subsidiary plots allocated in a designated order;
- c) demarcation and approval of area size for a homestead according to the guidelines of the Art. 71 of LC;
- d) registration of the right to land use and land leasing contracts;
- e) compiling state land cadastral valuation and farming register, and regulation of homesteads and lands of personal subsidiary farms;
- f) monitoring of land use and protection;
- g) approval of land regulation documentation related to the use of land within their jurisdiction.

*/"About alterations and amendments to LC RT" Law of the RT, February 28, 2004, art. 81/*

In the area of land use regulations district (city) local governments within the administrative borders of city (district) are authorized:

- a) to submit proposals about land allocation to city (district) local governments;
- b) to submit proposals about termination of land use to city (district) local governments;
- c) to assign land plots according to article 26 of the LC;
- d) to monitor land use and protection.

*/Art. 15 LC RT/*

The State registration of the right to land use is handled by the state land regulation body of the RT and its representatives locally.

Processing and issuing documents that stipulate the right to land use are handled in accordance with Art. 17 of LC RT.

The right to use a land plot by sole proprietors and legal entities is active from the moment of the

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receipt of documents verifying the right to land use, that had been registered by the State.

The Government of the RT establishes the order of state registration of the right to land use, and the format of land registry and sample documents necessary to determine and verify the right to land use.

*/“About alterations and amendments to LC RT” Law of the RT, art. 17/*

The right to land use is verified by the following means:

- the right to continuous, fixed term and life estate use of a land plot - by the Certificate of the right to land use;
- the amount of the land share - by the Certificate to land share;
- that individuals who own a homestead are eligible to receive the Certificate for the right to land use through the state land regulation body of the RT and its local representatives.

*/Art. 27 LC RT/*

When the property right to a building, construction or another facility is transferred to another individual, that individual simultaneously gets the right to use a land plot where (s)he is located.

This procedure is regulated by the state land regulation body and its local representatives, which assign the right to use a land plot to the person to whom the buildings and constructions are transferred.

In case if the purpose of land use is altered, documents that verify the right to land use are processed again and registered in a designated order by the state land regulation body and its representatives locally.

In case if the land plot, where the constructions and buildings are located, is not fully used, the right to unused land is terminated.

When the property right to a residential building is transferred to another individual, (s)he simultaneously gets the right to use lands of a homestead.

*/Art. 32 LC RT/*

The land use in the Republic of Tajikistan is based on a fee. A fee for land use is paid in a form of land lease and land tax.

*/Art. 33 LC RT/*

The amount of land tax and land lease payments for agricultural lands are defined based on quality and location of a land plot taking cadastral valuation into account.

Rate of payments for use of other types of land is determined based on their location, type of use, environmental and socio-economic specifics.

*/Art. 35 LC RT/*

Matters pertinent to establishing benefits on land tax are regulated by "Payment for land" Law of the Republic of Tajikistan.

*/Art. 37 LC RT/*

The following conditions for termination of the right to use a whole land plot or its part are determined by the Land Code of the RT:

- a) refusal of land;
- b) termination of activities of land-users;
- c) irrational use of land;
- d) use of land not according to its intended purpose;
- e) utilization of land by means leading to decreased

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soil fertility, its chemical, radioactive or other contamination, aggravation of environmental situation;

- f) upon expiration of the term of land use;
- g) systematic failure to make payments of lease within timeframe stipulated by law of the RT;
- h) non-use of a land plot for agricultural production during 1 year, and for non-agricultural needs - during 2 years;
- i) withdrawal of lands in cases specified by LC RT

/"About alterations and amendments to LC RT" Law of the RT/

- j) the right to land use is terminated in case of routine violation of the land code.обстановки;

/Art. 47 LC RT/

Land disputes that arise from land issues are handled by the State Land Regulation body of the RT and its representatives locally in accordance with the current Land Code. In case if its ruling is not carried out, the Committee is authorized to submit relevant documentation to law enforcement agencies. Sole proprietors and legal entities, which do not concur with the ruling of the State Committee for land regulation, can appeal it in court.

***Before amendments to LC RT have been added, it had been established that land tax rate and leasing fee were estimated based on a price of grade of hectar (a unit of assessment of soil quality, called "bonitet").***

***After the amendments were incorporated, land assessment determining a standard price and objective taxation and leasing in the RT is carried out in accordance with "About land assessment" Law of the RT, while art. 14 of LC RT states that "the amount of lease is determined by a leasing contract".***

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## IV. LAND REFORM PHASES

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/Art. 4 "About land reform" Law/

**The land reform is carried out in a step-by-step procedure:**

Phase 1 - executive bodies acquire the right to manage land, demarcate the borders, conduct land needs assessment among individuals, enterprises, organizations, establish special reserve for its subsequent distribution, and identify rate of land tax and land prices.

Phase 2 - executive bodies - the Committee for land resources and regulation at the Government of the RT carries out transfer and assignment of land to own, use and lease by individuals, enterprises, organizations according to law of the RT.

***During Phase 1, in 1992, "About dekhkan farms" (DF) and "About Land Reform" laws of the RT were adopted; however, due to unstable political situation farther steps to implement reform were impossible.***

The Decree # 522 from June 25, 1996, by the President of the RT, Mr. E. Rakhmonov, served as an underlying document that prompted land reform in the republic. Based on this Decree, the State Committee for land resources and regulation at the Government of the RT as well as the State Commission for reorganization of agricultural enterprises and organizations have been formed.

The Decree also approved a Ruling about procedure of reorganization of agricultural enterprises and organizations, identified potential ways of transformation and reorganization of collective farms and joint farms into dekhkan farms and other forms of farming that meet market economy requirements. The Government of the RT made a decision about transformation forms and methods of enterprises, according to the proposal of the State Commission for reorganization of agricultural enterprises and organizations taking recommendations of local reorganization commissions into account.

- Based on Decree #1021 from June 22, 1998 of President of the RT Mr. E. Rakhmonov, the Government of the RT issued Resolution # 244 from July 27, 1998, that expanded the scope of the land reform, approved format of main documents: the Certificate for the right to land use and the Certificate for the land share that provide land use with a legal ground.
- This Decree, using data from the State Committee for land resources and regulation has effectively reorganized 123 large agricultural enterprises and organizations into 760 dekhkan farms. For the first time, 62, 588 people in rural area acquired land shares.

The reorganization took place in farms that were unsustainable or bankrupt by a voluntary decision of a group that selected one of the types of farming.

- Then, based on the Decree # 1232 from June 2, 1999 by President of the RT E. Rakhmonov and the Resolution #247 of the Government of the RT from June 28, 1999, 161 agricultural enterprises were reorganized into 630 DFs. As a result, 132,214 people received land shares.
- Based on the Decree # 478 from February 2, 2001 by President of the RT E. Rakhmonov and the Resolution # 128 from March 29, 2001, 120 agricultural enterprises were reorganized into 659 DFs. 156,682 people got land shares.

Farm reorganization has frequently been carried out without local preparation, without informing peasants ("dekhkans") about goals and objectives of the reforms, their rights, responsibilities and other information relevant to dekhkan farm set up.



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Rural women turned out to be the least informed. And there is a reason for that. Although women perform most of the work in the field in Tajikistan, the majority of them are not informed about land reform, land rights, etc.

The reorganization of rural enterprises discussed above has been carried out with direct involvement of top management of hukumats and farms. Referring to their mandate to carry out the plan of growing cotton and other agricultural products, some managers of hukumats and farms virtually pursued their own interests by distorting the gist of reforms.

- Resolution # 385 from October 1, 2002 by the Government of the RT stipulates that the process of the reorganization of agricultural enterprises and organizations has to be completed by the end of 2005. During this process 225 farms have to be reformed; including 40 - by the end of 2002, 100 - by the end of 2003, 45 - by the end of 2004, and 40 - by the end of 2005.

***Land, its resources, water, air space, animal and vegetal life, as well as other natural resources, solely belong to the State.***

***The State and the Government of the Republic of Tajikistan guarantee its effective use to the benefit of its people and transferred land for continuous and fixed-term use to individuals, and for inheritable life estate - to dekhkan farms.***

***/Art. 13 of the Constitution of the RT/***

The objectives of this phase of the reform constitute providing effective use of land resources by distributing land and setting up DFs with the goal of yielding maximum profits from produced harvest. Furthermore, during this period it is necessary to study motivation, creating appropriate work conditions and legal framework for the members of DFs.

- By January 2004, 140 farms have been reorganized into 624 DFs. 145,406 people received land shares.
- By January 1, 2004, 19,565 DFs have been established as a result of farm reorganization. 400,000 residents of rural areas acquired land shares.
- Market share of DFs within gross agricultural output of the RT constituted 19,1% in the total amount of 374,8 thousand somoni\* (2003 data from the State Statistics Committee).

The land reform is carried out in difficult conditions: on one hand, the paramount goal is to yield maximum harvest of cotton and other agricultural products; on the other hand, - to complete reorganization of agricultural enterprises and organizations by 2005. In these circumstances, dekhkan farms are undergoing double pressure.

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## V. DEVELOPMENT PROSPECTS OF LAND ISSUES IN THE REPUBLIC OF TAJIKISTAN

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The land reform is in the process. It heavily relies on DFs: mainly, individual and family-run, and a potential prospect of more sophisticated land transactions.

Based on these assumptions, the following scenario is anticipated:

- a transfer of the right to long-term use based on the right to do land deals;
- a total collapse of collective and joint farms; existing DFs would be divided at their members' disposal and acquire the right to land use;
- gradual removal of such obstacles, as command and administrative, financial, budgetary, etc., that hinder the development of the DFs;
- improvement of the land registration procedures, which will ensure the legal right to land;
- building expertise in current legislation pertinent to land issues, identifying its discrepancies with other legislative acts;
- developing methods and tools to resolve land disputes; introducing and involving arbiters.

Poverty Reduction Strategy and other program documents are aimed at creating new management systems, distribution of land resources, setting up DFs and more progressive types of farming. However, while addressing these issues, gender position has not been taken into account.

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## VI. TYPES OF LAND OWNERSHIP AND OPERATIONS

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At present, the following types of operations could be established and function within the agricultural sector:

1. Agricultural firms.
2. Joint agricultural firms.
3. Agricultural joint stock companies.
4. Agricultural enterprises and cooperatives (collective farms, inter-farms, etc.)
5. Dekhkan farms (DF).

Agricultural firm - an agricultural economic unit within market relations structure that is economically and legally independent and uses resources to produce goods and yield profit.

Joint agricultural firms - several agricultural firms voluntarily united on the basis of a contract to achieve more effective mutual assistance, exchange of experience, etc. They create an Association or a Union of agricultural firms.

Agricultural joint stock companies - commercial organizations with a start-up capital that is divided by founders' shares. Property created by founders' investments, as well as produced and acquired by the partnership and company during its activities, belongs to them according to property right.

Agricultural cooperatives - voluntary unions of individuals based on membership, joint production shares or another kind of activity and equity contribution.

*/Art. 3 "About Dekhkan Farms" Law/*

DF is an independent business that carries out its activities without forming a legal entity and is based on personal labor of an individual or members of one family and other individuals, jointly performing agricultural production. DF can be set on a land plot and other properties belonging to members of DF. Spouses, children - adopted and biological, parents and other individuals working on a farm - could be members of a dekhkan farm.

**Legal framework of establishment and activities of DFs in the country are determined by "About Dekhkan farms" Law of the RT on May 10, 2002.**

*/Art. 4 "About Dekhkan Farms" Law/*

Individuals who work in a dekhkan farm in a temporary status are not members of a farm, and their labor relations with a dekhkan farm are regulated by labor law.

*/Art. 5 "About Dekhkan Farms" Law/*

A dekhkan farm along with for-profit organizations and entrepreneurs is an equal unit of economic system. All its business operations are carried out with consent of parties using cash payments and wire transfers. A dekhkan farm independently determines the production structure and type taking its interests into account, and can conduct any type of business not prohibited by law of the RT.

*/Art. 5 "About Dekhkan Farms" Law/*

Interference with business of dekhkan farm by government bodies and officials is not allowed, except for legal purposes.

*/Art. 6 "About Dekhkan Farms" Law/*

Every able-bodied citizen of the RT has the right for starting a dekhkan farm.

*/The Land Reform Concept, "About Dekhkan Farms" Law of the RT, art. 6/*

For rational and effective use of land by dekhkan farms and their successful operations, several types of dekhkan farms have been proposed:

- a dekhkan farm based on individual entrepreneurship;
- a dekhkan farm carrying out its activities in a form of family business and based on joint property;
- a dekhkan farm established in a form of ordinary partnership based on common property and using joint venture contract.

Based on the described types of activity, the Land Reform Concept identified models of dekhkan farms that work on irrigated arable, dry land, set up gardening, vineyard, cattle farms.

A head of a dekhkan farm can be one of its able-bodied members who has knowledge, skills and experience in agriculture.

*/Art. 7 "About DFs" Law of the RT/*

A head of dekhkan farm represents interests of DF in relation to sole proprietors and legal entities, government bodies, and carries out business.

***It became expedient to remove article #68 of the Land Code, which stipulated that "land of government and cooperative organizations is subject to conditional division among permanent members of the collective into certain shares...". However it lacked definition of "permanent". Considering that women who take maternity leave might be viewed as temporary, it was decided to review this article and make changes. "About alterations and amendments" Law of the RT excluded this article under point #23.***

***/The Land Code of the RT, art. 66/***

***In cases when the number of candidates for inheritable life estate land exceeds the number of available land plots, district land committee bases its decision upon farming experience of each candidate; therefore, the candidates with the longest experience are given preference.***

***/After legislation has been altered/***

***To those citizens of the RT who will set up DFs, land is allocated as inheritable life estate in an order designated by "About Dekhkan Farms" Law (adopted on May 10, 2002).***

Funds of a dekhkan farm result from earnings from production sales (work, services), loans, government appropriations, donations and other revenues. Financial report of a dekhkan farm is based on its annual report.

*/Art. 26 "About DFs" Law of the RT/*

Farmers are eligible for a wide range of benefits (to simplify the reporting mechanisms):

- a) they are exempt from fee for the state registration;
- b) they can open a bank account at no cost;
- c) they are exempt from payment for setting up electric power, water supply (without the use of utilities and technical equipment);
- d) they can use government funding supporting small businesses for training and staff development.
- e) they can receive a preferential loan from the banks sponsoring DFs;
- f) they can enjoy other benefits designated by law of the RT.

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## VII. SETTING UP ASSOCIATIONS OF DEKHKAN FARMS (DF) AND THEIR PURPOSE

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### */Art. 28 "About Dekhkan Farms" Law of the RT/*

In order to coordinate its activities, represent and protect property rights, DFs and their representatives can establish Associations through a voluntary union.

The procedure of creating an Association of DFs is regulated by "About the DFs in the RT" law. Association functions on a basis of founding agreement and charter, approved by its members; it is a legal entity registered in justice bodies in the area.

Dekhkan farms of Association remain independent. It is prohibited to involuntarily include dekhkan farm members in Association.

### */Art. 29 "About Dekhkan Farms" Law/*

General meeting of members serves as the Association's supreme body of management. The Association's Council, selected at a general meeting and led by its Chairman, determines Association's rules.

In addition, the Council of Overseers and its chairman are selected at a general meeting.

### */Art. 30 "About Dekhkan Farms" Law/*

In order to accomplish its goals and objectives, Association of dekhkan farms has the right to:

- carry out common activities in commerce, finance, loan, technical development, agreed upon by the participants;
- create financial and material resources by voluntary dues, centralize production and business objectives;
- regulate relations among its participants through estimated prices, tariffs and valuation.

According to the Constitution of the RT, laws and other legislative acts of the RT, participation of women in creating an Association is not limited. Women, equally to men, can voluntarily unite in an Association of DFs; at present, however, there is no such Association.

Association of dekhkan farms does not have to meet requirements of its members, and its members do not have to meet Association's requirements, except when Association acts as a guarantor.

The resignation procedure from Association of dekhkan farms and its liquidation are determined by the Charter.

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## VIII. ISSUES IN DF OPERATIONS AND POTENTIAL SOLUTIONS

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1. In accordance with article 3 of "About Dekhkan Farms" Law, a dekhkan farm has the right to carry out its activities without being a legal entity. However, banks and investors do not recognize DFs that are not legal entities and do not issue loans. Consequently, DFs have to apply to intermediaries in order to receive a loan. The former, in turn, request high annual interest rate. It amounts frequently from 24-48%, which is not profitable for development of agricultural products. Banks, therefore, do not have incentives to finance agricultural production, which sometimes leads to late planting and harvesting. Thus, only 11% of DFs received bank loans in 2001, and none of them were women. For this reason, agricultural growth is slow.

***Since "About microfinance organizations" law of the RT has been adopted on May 24, 2004, the support for DFs is expected. Resolution # 164 from April 8, 1994 "Creation of assistance fund for dekhkan farms" whose goal was to support DFs, has not been implemented yet due to absence of funds.***

*During the meetings, round tables, conducted by UNIFEM staff with rural women, women -heads of DFs proposed to expedite resolution of issuing loans to farmers and entrepreneurs on a condition of returning a loan on a term from 1 to 3 years and to create "Farmer's Bank" - an assistance fund for farmers and entrepreneurs and also to expand micro-finance programs.*

2. Many members of DFs are not professional farmers. They are former drivers, teachers, workmen, and among women - quite a lot of housewives. They are not familiar with technologies of agricultural production, business documentation: record keeping and reporting, and their economic rights. Hence, it would be practical to set up learning centers for farmers and entrepreneurs in regions and districts of the Republic, and integrate gender equality as part of land reform into learning programs of the Ministry of Agriculture of the RT.
3. There is a lack of information about market, pricing, advanced technologies of agricultural production, which presents another impediment to dekhkans (peasants). Among questions that require answers are: "What and when to produce?", "When and where to sell?", "How to increase product competitiveness?", "How to improve financial and economic indicators of a farm?", "How to enter external markets?". It is necessary to do market research and create a database, which will require a marketing service for farmers.
4. The lack of information about land reform, provisions and guidelines that regulate the activities of DFs constraints creation of these farms and development of entrepreneurship in rural areas. That is why, it is essential to publish specific literature on laws, resolutions, instructions, etc. This literature could be sold at a reasonable price to DF members and entrepreneurs.
5. Today the most challenging issue for a dekhkan is absence of agricultural equipment. There is no sufficient amount of tractors and parts. The equipment of former collective and joint farms is exhausted. DFs do not have funding for repair works and renewal of equipment. At the outset it is necessary to create up-to-date machinery stations, by combining funds of the government, public and farmers, and implement leasing and micro finance initiatives.

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6. As a result of civil war, all systems of management, coordination and service to dekhkans have been destroyed. Currently, there are few service providers for DFs locally. Former national organizations that served agriculture have been reorganized; however, their activities are not coordinated to support producers of agricultural goods. Dekhkans are forced to purchase mineral fertilizers, gasoline, equipment and parts at a high price from futures companies. This negatively impacts economic results: the cost of products soars and they become non-competitive. As a result, debt of farmers and entrepreneurs increases.
  7. When single tax system was introduced, it facilitated work of farmers and entrepreneurs of the RT. The system of record keeping and reporting for DFs has been simplified. The number of audits and interferences on behalf of tax agencies has decreased. However, economically, single tax has put many farmers and entrepreneurs of the RT at a disadvantage. Before single tax system, a farmer paid 60-70 somoni on 13 types of taxes from 1 ha of irrigated land. Starting January 1, 2003, in the farms of Vanskiy, Rudakinskiy, Spitamentskiy, Shaartuzkiy districts, single tax was introduced on a pilot basis. Now, the tax rate was set from 46,7 to 172 somoni for farms. Another shortcoming of this system was that it did not apply to activities of other organizations in agricultural sector. Therefore, the Government of the RT was recommended to decrease single tax rate in order to circumvent double taxation and to extend the power of single tax to all organizations of agricultural sector.
  8. Many managers of local governments violate "About DFs" Law. They arbitrarily liquidate DFs. In 2003 following recommendation of the dekhkan farms and entrepreneurs Union, the Supreme economic court of the RT has recognized 9 decisions made by Chairmen of Rudakinskiy, Mirsaidalii Khamadoni, Nurabadskiy and Jilikulskiy districts to liquidate dekhkan farms as illegal and overruled them.
  9. The Decree #542 by President of the RT E. Rakhmonov from March 28, 2001 "About record keeping and audits of businesses in the RT" has not been followed in some cases. The audits by inspection authorities frequently violate the Decree on different levels.

***Apparently, the need to create appropriate service centers in rural areas to support farmers and entrepreneurs has arisen.***

All of these challenges could be resolved by government agencies, NGOs and agricultural sector itself.

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## IX. REGISTRATION PROCEDURE FOR THE RIGHT TO ACCESS AND USE OF LAND RESOURCES

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The state registration of the right to land use is handled by the State Land regulation body of the Republic of Tajikistan and its local representatives.

*/Amendments by the Law #23 of the RT from February 28, 2004/*

The land register has to contain information not only on that individual from a household, who receives the Certificate, but also on each member of a household who receives the Certificate about land share. Thus, interests of each member of a household are taken into account.

*/Resolution #29 of the Government of the RT from February 4, 1999/*

Simplified procedure to establish and register the right to land use:

1. Application about allocation of land to set up a DF is submitted by an individual to a district land committee.
2. Application is processed by the district (city) chairman and forwarded to a district land committee for opening a land regulation file, which consists of the following:
  - a) a record and a blueprint of a land plot identified for a dekhkan farm;
  - b) a land tenant's (collective farm, state farm, inter-farm) decision about allocation of a land plot to a dekhkan farm;
  - c) decision by jamoat (rural land committee) about setting up a dekhkan farm;
  - d) a certificate from a district land committee about a land share;
  - e) a recommendation by a district land committee for approval by the district, city chairman of land allocation documents;
  - f) a district, city chairman's decision about approval of land allocation materials and setting up a dekhkan farm;
  - g) a land lay-out for a dekhkan farm.
3. Land allocation file is processed and materials are forwarded to the State Committee for land regulation for the Certificate for the right to land use to be issued.
4. The Certificate for the right to land use is registered by the State in a district land committee and issued to a land tenant.
5. Record and blueprint of borders of a land plot for use is to be marked on land surface.

*/Resolution #30 of the Government of the RT from February 4, 1999/*

Simplified procedure of land share identification and registration (according to art. 68 of the LC RT):

1. Farm creates a list of workmen who have the right to acquire a land share.
2. The list of shareholders is approved by a supreme management body of a farm - general meeting and Council - based on rules.
3. The list of shareholders is forwarded to city or district land committee to identify a land share for each member of a farm.
4. The size of a land share in terms of land is approved by city or district chairman's decision.
5. The document verifying the right to a land share (the Certificate for land share) is given by city or district land committee to each shareholder who has also to register in a land committee.



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Dekhkans (peasants) do not consider this procedure simplified. They note challenges that occur while preparing documents to receive the certificate for land use. The number of certificates and documents required for the Certificate easily reaches 12.

It is necessary to analyze the situation more meticulously and, if necessary, to take additional measures to simplify the procedure and methods of acquiring the Certificate by all individuals who are willing to establish DFs.

***In order to prepare all paperwork necessary for the Certificate, a farmer spends a lot of time and money on services of land committee agencies. District and city Hukumats along with district land use committees sometimes create red tape while processing farmers' applications.***

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## X. GENDER ASPECTS OF LAND REFORM AND STATISTICS

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The outcomes of research conducted by UNIFEM demonstrate that when compared to men, women, in spite of declared legal equality, do not have equal access to economic resources, including land. Meanwhile, women's employment in agricultural sector exceeds that of men, as temporary wage workers in state and collective farms, in dekhkan farms, and homesteads (personal subsidiary farms). Hence, according to 2000 Census, the number of women working on personal subsidiary farms (as their main occupation) amounts to 213,5 thousand, or 127 women to 100 men, and in dekhkan farms (on contract and permanently) - 80,2 thousand or 108 women to 100 men.

At the same time, there is a gender imbalance at the management level in agricultural sector. The number of women managers is significantly lower than that of men.

According to statistical reports of the State Statistics Committee of the RT for 2002, of total number of temporary wage workers, women constituted 50,2% among top managers and 15,2% among specialists; in collective farms - 50,8% and 15,1% respectively, and in joint farms - 54,3% and 8,9% respectively. The wages of women in agricultural sector are almost twice as low as that of men.

***Women have unequal access to economic resources as well, including land.***

***"Due to deeply rooted customs, and male inheritance tradition, women have access to land only through their relation to men, whether it's their fathers or spouses. Rural women are virtually not aware about their economic rights, right to land use, and use of natural resources".***

***/Resolution #196 from April 30, 2004 about amendments to the State program: "The major points of the State policy on providing equal rights and opportunities to men and women in the Republic of Tajikistan for 2001-2010"/***

Analysis of land reform monitoring from a gender perspective, conducted by a group from the State Land Committee of the RT illustrates that the status of women and men in relation to land ownership remains unequal. The Land Certificates are mainly assigned to men. On May 27, 2004, according to enterprise registry of the State Statistics Committee of the RT, only 6% of the total number of registered dekhkan farms were assigned to women. In 1999 their share constituted 3,9%.

Farms headed by women employ significantly lower number of people, compared to those headed by men. The average size of a farm led by a woman is approximately half as large

as that of a man, and consists of 13 people (compared to 23 people), and the total number of employees in these farms constitutes only 3,5% of the total number of people employed in farms. 80% of dekhkan farms led by women are small and family-based. Less than 10 people are usually employed. However, it is worth mentioning that data about the size of a land plot and production in dekhkan farms that are headed by women are not analyzed.

Having researched the situation with the women's rights within the framework of land reform, UNIFEM's project along with the NGOs developed amendments and alterations to the Land Code of the RT, which have been adopted by the Parliament and signed by the President of the RT on February 28, 2004. Previously, a land plot was assigned to each neighborhood. As a rule, several families live in one neighborhood: parents, brothers, grandchildren. When a land plot was allocated to one family, interests of others in a neighborhood were not considered. This issue was taken into account when alterations and amendments were incorporated in the LC RT.

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*/Art. 71 "About DFs" Law of the RT/*

Each family is given a personal land plot area up to 0,12 ha of irrigated lands and up to 0,25 ha of dry-lands, virgin and mountain lands up to 0,15 ha of irrigated lands and up to 0,40 ha dry-lands, including area intended for construction and yards.

A newly formed family also has the right to a land plot. The estrangement of family does not present a reason for dividing plots. In certain cases, when land on personal land plots exceeds current standards, it can be divided among newly formed and other families. A newly formed family, registered in jamoat according to designated procedure, is provided with a land plot on a common basis.

Article 17, point A, previously stipulated that the Certificate verifying the right to land use is given to a head of a dekhkan farm. Family members who had their land share did not receive any document. Now, based on amendments, a head of a DF gets a certificate, and family members get Certificates for land shares.

Articles 67-69 were excluded from the Land Code, where it was stated that earlier existing land of collective farms was to be distributed and divided among permanent and full members of collective farms. A woman on maternity leave or not a member of a collective farm would lose her right when land was divided.

Article 66 was corrected and now replaced articles 67-69; its new text stipulates that all citizens of the RT have equal rights to land use when land is divided. All main human rights agreements include provisions that designate women's rights within the framework of land reform.

In addition to these articles, general commitment to transform discriminatory social and cultural types of behavior of men and women means not to permit them to hinder women from active participation in land reform.

It is important to be aware that definitions of "discrimination" and "equality" reflected in human rights agreements, must be interpreted according to the main equality model. It means that women's rights are violated not only when, for instance, laws make formal distinction between men and women, but also when any law, policy or action negatively impact women in practice.

In order to fulfill its commitments on these provisions, the Government of Tajikistan, in our point of view, has to develop specific measures in the framework of land reform to provide support to women's rights.

These measures will be fostered by gender-sensitive monitoring that has been in place since August 2004 in regions and districts of the republic.

***Women's Convention and International Agreement on social, economic and cultural rights stipulate women's right to land. The Convention explicitly protects rights of rural women to equal treatment in the process of land reform.***

***General Recommendation of the Committee of Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) provides a more detailed explanation of this right - on equality in marital and family relations, which appeals to countries to provide women with re-distributed land on equal basis with men.***

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Authorities on local and national levels involved in the process of reform implementation need to be trained on such subjects as "Equal rights for women within the land reform framework", "Providing access of women to land of equal quality".

Women need to be informed about their rights and about how to be integrated into reforms' process. They need assistance in terms of providing and enforcing their rights. Public awareness campaigns are necessary, along with involvement of religious leaders in order to change stereotypes about women that thwart enforcement of equal rights and opportunities.

It is known that many women, due to labor migration of men, especially in rural areas, became family heads and live in poverty. Sometimes this results in divorces, because their husbands start new families. After divorce women are frequently left without the right to property, housing and money. Article 40 of the Family Code practically does not work. There are almost no families which, upon being married, sign a Marriage contract. Frequently women do not know their rights and cannot protect them after divorce. They do not have access to land and loans. Women have almost no participation in the process of decision making, both at home and in a society.

Over the last 13 years official statistics and information market for consumers in Tajikistan have changed and are geared toward further development. Demand for new types of information emerged; in particular, on gender relations. Nonetheless, statistics agencies lack a wide range of information on gender issues, and especially, on gender aspects of land reform. Accordingly, information on this matter is gathered by various agencies and organizations, not necessarily familiar with methods of statistical research and data analysis. As a result, the data is inconsistent.

Enterprise registry compiled by the State Statistics Committee of the RT is one of the sources for statistics on gender aspect of land reform. Its data allows to track some of the issues related to gender in land reform by regions. Particularly the number of registered Dfs headed by women, men, size of dekhkan farms, and number of employees.

In statistical reports used in different areas of agricultural sector, gender indicators are not taken into account.

There are 26 types of statistical reports on agricultural sector, including:

- Report about spring sowing by 3AG form;
- Final report on outcomes of sowing of agricultural products (form 4 2 XA);
- Crop land, gross harvest and harvest capacity of products (form 29 2 XA);
- Planting gardens and vineyards (form 11 2XA);
- Annual report on the number, type of lands and land-users (form 6 2 XA).

These forms of reporting are conducted by the State Committee for Land regulation and its representatives locally. Reports reflecting indicators, quality, and impact of land reform are not written. None of the mentioned reports reveal the status of rural women, their role and place within land reform.

It is necessary to obtain adequate information, organize primary registry and analysis of existing information on the land reform process, and, in particular, gender issues at farm level and jamoats about production, availability of arable land and other issues. Following this recommendation of the Coordination Council at the Government of the RT that had been established to support UNIFEM project, the State Statistics Committee of the RT started carrying out integration of gender indicators into primary statistical forms from January 1, 2005 for a regular monitoring of the process.

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These indicators are as follows:

- 1) name a farm registered to (man, woman);
- 2) legal status of a farm;
- 3) land use (rented, leased).

These indicators will be incorporated into annual and progress reports on agricultural sector and forms for 10% select research of dekhkan farms:

1. 1-farmer - "Dekhkan farm activities (June, December);
2. 1-XA - "Outcomes of sampling of crop lands" (June);
3. 2-XA - "Outcomes of sampling of final size of crop lands" (December 17);
4. 1-jamoat - "Outcomes of sampling of livestock units and cattle farming" (quarterly).

Simultaneously, for a full analysis of this process it is planned to carry out every two years a special research to elicit gender factors in the area of land ownership with indicators that characterize status of rural women (specifically, non-use of land).

Taking into account real status of rural women and stereotypes in relation to them, it is necessary to incorporate gender approach into mechanisms of implementation of land reform laws. Women must be represented at the level of development of strategic plans, economic programs and reforms. Providing access of women to economic resources, including land, has to be emphasized.

Consequently, it is expedient to monitor regularly the implementation of land reform from a gender perspective. Based on its results, changes and amendments to Land, Civil and Family Codes, subsidiary acts are needed in order to protect economic rights of women. In the process of monitoring land shares, number of women who started DFs, number of DFs headed by women and proved to be sustainable have to be considered. Besides, the number of rural women who obtained loans, the number of women from a district who have been promoted and worked at levels of decision-making, starting with chairwoman or deputy chairwoman of district, region, enterprise and DF also need to be taken into account.

We believe that it is necessary to keep contact with women-farmers and their families in order to identify problems in a timely manner and propose solutions to appropriate agencies.

We hope that this initiative will drastically impact increasingly active participation of women and women's organizations, strengthen their interaction with government bodies on the subject of applying to practice international standards on women's rights.

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## REFERENCES:

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1. The consolidated laws of the Republic of Tajikistan on land relations;
2. "About Dekhkan Farms" Law of the RT;
3. International Agreements on human rights to protect rural women's right to land in the Republic of Tajikistan, 2004;
4. "Tajikistan Economy" magazine, Development Strategy, #1, 2004;
5. Outcomes of research by Dr. Zongmin Lee, UNIFEM consultant, "Needs assessment of rural women in getting rights to land use in Tajikistan" , 2002

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