



Women at a legal information session (left) and women meeting the project team during the field monitoring visits in Rasht District in northern Tajikistan.

Photos: Helvetas

ACCESS TO JUSTICE FOR WOMEN IN TAJIKISTAN

Over the last quarter century, Tajik people have suffered from horrible civil war, economic collapse and a massive labour migration following the break-up of the Soviet Union and independence from it. Many women were left with no support, since their husbands and fathers had either been killed or had migrated to work in Russia. Forty-nine per cent of Tajik women live in the rural areas. They are especially challenged by limited access to justice and hostile gender customs. The “Access to Justice” project is to change this.

By Umeda Fazilova

Since the collapse of the Soviet Union, women in Tajikistan have faced the re-assertion and adoption of conservative social norms regarding acceptable gender roles. As a result, in rural areas in particular, women’s access to education, employment and justice has been drastically reduced, while the control of men over women has increased. When it comes to education, inheritance, land rights and employment, boys enjoy more advantages, while girls leave the family as soon as they get married, and often live with their husband in his family’s house.

WHERE HELP IS NEEDED MOST: FAMILY RIGHTS, PROPERTY RIGHTS, DOMESTIC VIOLENCE

Another harmful gender custom is male polygamy, commonly spread in rural areas. Polygamy is prohibited by law in Tajikistan. However, men tend to initiate the religious marriage (‘nikoh’) with their second or third wives. Religious marriage is not recognised as a legal marriage by Tajik legislation. Moreover, it does not protect women’s fundamental rights as stipulated in Tajik law. Divorce in the religious marriage can be initiated by the men

repeating the word ‘talaq’ three times. Women and their children often face adverse consequences when the “marriage” breaks down.

Nearly half of Tajik women have experienced physical, psychological or sexual violence. One in every five married women reported having experienced emotional, physical or sexual violence by their husbands (19 per cent), and 4 per cent of women disclosed that they had experienced sexual violence at least once.

Source: ADB Tajikistan Country Report, 2017

The most common issues for women divorced from religious marriage are establishing paternity, claiming child support (increasing/lowering the amount of child support), splitting up property among ex-spouses and determining where the child is to stay.

According to a 2012 Soros Foundation study, the majority of women in Tajikistan face legal issues that are related to family rights (registra-

tion of marriage and divorce, obtaining child birth certificates, care of children, child allowance payments, etc.) and property rights (joint property of spouses, inheritance of spouses, etc.) associated with them. The same statement is confirmed by a 2011 Eurasia Foundation study, which stipulates that the most common legal issues in the Republic of Tajikistan are divorce and related matters of child allowance payments and property division, documents on civil registration, domestic violence, theft, and land and property disputes.

In addition, domestic violence, including intimate partner violence, has been reported to be the most common form of gender-based violence in Tajikistan. Between a third and half of all women in Tajikistan regularly experience physical, psychological, or sexual violence.

Before the adoption of the Law on the Prevention of Domestic Violence in 2013 and the subsequent State Program for the Prevention of Domestic Violence for 2014–2023, domestic violence was largely considered as a private matter to be resolved within individual families. The introduction of the new law sent the powerful message that domestic violence is a social issue in which the state should intervene.

THE "ACCESS TO JUSTICE" PROJECT IN TAJIKISTAN – WHERE IT STARTED

While the government's efforts to reform the justice system in Tajikistan are commendable, the people in Tajikistan still face obstacles in accessing justice because of capacity gaps resulting from the population lacking knowledge of the laws and their own rights. These problems are especially prominent in rural, remote and hard-to-access areas of the country.

In 2015, the Government of Tajikistan started the implementation of the Judicial and Legal Reform Programme for 2015–2017, which envisaged the establishment of the state free legal aid system. By that time, Helvetas already had experience providing free legal aid through non-governmental Legal Aid Centers funded by Swiss Agency for Development and Cooperation (SDC). While this system was successful, SDC wanted to see it upgraded to a government-run, government-funded system, in co-ordination with the creation of a policy dialogue platform that would allow civil society to have input – first into the creation of a new legal aid system, and eventually into general access to justice. SDC therefore encouraged a partnership between Helvetas and United Nations Development Programme (UNDP) in a new project: 'Access to Justice' (A2J). The overall goals of the project were to provide free legal aid, particularly to women and poor people, to create a policy dialogue platform and to lay the foundations for a state-run system of free legal aid. It was envisioned that the project would consist of several four-year phases.

Major milestones of the Phase I (which lasted from December 2012 to November 2016) included development of curriculum modules on family law for 10th grade pupils of Tajik schools, the development and approval of the concept paper on state guaranteed legal aid and creation of the free hotline for free legal consultation by phone. According to a 2016 monitoring of the project, 84 per cent of clients were satisfied with the quality of services via the hotline, and 85 per cent stated that these consultations saved them money. The hotline was transferred to the ownership of the Ministry of Justice in January 2016 and is still fully operational. Meanwhile, the project Legal Aid Centers provided free legal aid to over 16,000 people across Tajikistan. Over two-thirds of these (68 per cent) were women, and an estimated 80 per cent of them were poor.



Schoolchildren (10th grade) preparing the group task during the Family Law Class which is part of their curriculum.

Photo: Helvetas

From December 2016 onwards, Helvetas, in consortium with the United Nations Development Programme, has been implementing phase II of the project (which will last from December 2016 until November 2020). The project is to continue supporting the system of free legal aid and legal awareness raising among the population.



Me and my husband had a religious marriage. After 15 years of married life, my husband decided to marry another woman. He expelled me from his house with our five children. I cannot get back to my parents' house, and I have nowhere to go. I can't even claim alimony.

N.Z, 36-years-old, from Khujand city

Legal awareness is raised via legal infotainment activities, campaigns on TV and the radio, and in print media and social media. According to a study conducted by the project in 2017, the proportion of respondents who indicated that they were receiving legal information from any one of the information sources equalled more than 48 per cent. Over 80 per cent referred to TV as the most useful source of legal information, and the Internet (15 per cent of respondents) was considered as the second most useful one. The outcomes of the study are being taken into account for the implementation of project phase II. In particular, the project will put more emphasis on legal aware-

ness raising through community outreach activities, the development of Information and Communication Technologies, collaboration with the registry offices and local authorities in the most remote areas of the country.

All in all, the project plays a facilitative role in the process of reforming the country's judicial system through engaging the government, local authorities and civil society with each other, strengthening the rule of law and increasing legal awareness of people in order to mitigate economic vulnerability, social exclusion, violent extremism and inequalities. The project is above all meant to benefit vulnerable and marginalised people, especially in Tajikistan's remote areas, and in particular women, who are known to use legal aid services approximately three times as often as men, and youths, especially girls, who frequently have no access to legal information and education.

TWO PILOTING MODELS OF FREE LEGAL AID

The system of free legal aid provides the following services to the population: (1) written and verbal consultations, (2) help with the preparation of legal documents, (3) services on pre-trial settlement of conflicts (mediation) in civil disputes and (4) representation in court.

The system of free legal aid in Tajikistan functions via two piloting models, the providers



The aim of the Family Day event organised by the project was to increase young people's awareness about their legal rights via interactive games such as legal quiz, sport competitions and theatrical performances.

Photo: Helvetas

being the state and the non-governmental organisations. The state's support is based on the concept of state guaranteed legal aid the government accepted in 2016. Within the context of the concept, state free legal aid would be provided to the country's most vulnerable people: women, youth and people with disabilities.

Within the first model, free legal aid is provided by the State Agency Legal Aid Center (SALAC) that was established in 2016 as the structural unit of the Ministry of Justice. At the moment, SALAC is providing free legal aid in 18 rural districts through 18 state-run Legal Aid Centers.

Within the second model, the project is supporting six NGO-run Legal Aid Centers. Here, one of the NGO partners conducts regular legal awareness raising sessions in the piloted district. The results of the project's previous phase I indicated that 45 per cent of the participants had applied legal information that they had acquired during the legal awareness raising sessions. Another 32 per cent of the participants shared knowledge and provided legal advice to their families and friends.

From December 2016 until the end of May 2018, more than 7,700 people (64 per cent women) received free legal aid from both state and NGO-run Legal Aid Centers. The level of legal awareness among the population in the piloted district rose to 61 per cent from 25 per cent before the legal awareness raising sessions. More results of the project phase II are summarised in the Box.

The government is expected to develop and adopt the Law on Free Legal Aid by 2019. Once it has been adopted, the system of free legal aid will be fully taken over by the state. Meanwhile, NGO-run Legal Aid Centers will be phased out by the end of 2018. The knowledge and experience of NGO lawyers will be transferred to the state lawyers.

However, the sustainability of the state free legal aid system is under question owing to the government's lack of financial, technical and human capacities to support it. That is why the project, which stands a fair chance of being extended for another four years, continues to provide the capacity development opportunities for the state free legal aid providers and focuses on their institutional and human resources development.

POLICY DIALOGUE AS A NEW PLATFORM FOR RESOLVING LEGAL ISSUES

Helvetas as an organisation makes sure that in each project, our partners are engaged to influence policy-makers to endorse inclusive, pro-poor and fair policies. Within the "Access to Justice" project, the policy dialogue platforms are established at grassroots level, so that the community activists and the civil society representatives have a chance to speak up about the legal issues of their districts and call the local authorities into action to resolve them.

At the moment, the project supports training on policy dialogue for community activists,

RESULTS OF THE ACCESS TO JUSTICE PROJECT (DECEMBER 2016 TO MAY 2018)

- 6 NGO Legal Aid Centers
- 18 State Legal Aid Centers
- 7,776 clients received free legal aid
- 214 legal information sessions conducted
- 10 videos with legal messages broadcasted
- 9,500 brochures on family law distributed
- mobile app & web-portal for free legal consultations developed
- 99.1 per cent of clients satisfied with legal aid provided

civil society representatives and local authorities in six districts of Tajikistan. It is expected that by the end of 2018, the aforementioned training participants will be able to conduct policy dialogue sessions in their own districts.

CHANGES NEED TIME

The activities of the project contribute to a change of mind-set on gender roles and to the empowerment of women. Within the framework of the project, women are involved in the policy dialogue sessions and have an opportunity to speak up about their issues. Moreover, in the project districts, a woman can become a provider of free legal aid herself. She has to undergo the basic legal training run by SALAC, and as a paralegal, she can then give primary consultation to the members of her community on a voluntary basis.

Meanwhile, in 2010, the Government of Tajikistan passed the National Gender Policy and the National Strategy for Enhancing the Role of Women, which listed concrete actions on how to improve women's participation in education, the labour market, entrepreneurship, human rights and politics. These two measures are giving a major impulse for the further successful implementation of the Access to Justice project – a hope that in Tajik society, the role and opportunities of women and girls will be enhanced and expanded.

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