

Review of SDC's portfolio/Programme in the Rule of Law/Access to Justice sector in Tajikistan

Final Report

30 November 2011



"Would you tell me, please, which way I ought to go from here?"

"That depends a good deal on where you want to get to," said the Cat.

"I don't much care where –" said Alice.

"Then it doesn't matter which way you go," said the Cat.

"– so long as I get somewhere," Alice added as an explanation.

"Oh, you're sure to do that," said the Cat, "if you only walk long enough."

From [Lewis Carroll](#)'s 1865 novel, [Alice's Adventures in Wonderland](#)

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Abbreviations

ABA	American Bar Association
ADB	Asian Development Bank
AtoJ	Access to Justice
AJJR	Access to Justice and Judicial Reform
CMS	Case Management System
DF	Development Fund (NetLAC Project)
DV	Domestic Violence
EU	European Union
GDP	Gross Domestic Product
GIZ	Gesellschaft für Internationale Zusammenarbeit
GOPA	German Consulting Company
GoT	Government of Tajikistan
Helvetas	Helvetas Swiss Intercooperation – Swiss Development NGO
HO	Head Office
HR	Human Rights
HRC	Human Rights Center
JJAP	Juvenile Justice Alternative Project – Project implemented by UNICEF
JPO	Junior Professional Officer
JTC	Judicial Training Center
KasWag	Consulting Company
LAC	Legal Aid Center
LWL	League of Women Lawyers
MoU	Memorandum of Understanding
NetLAC	Rural Legal Aid Network in Tajikistan - Project implemented by Helvetas
NGO	Non-governmental Organisation
NPO	National Programme Officer
OHCHR UN	Office of the High Commissioner for Human Rights
OSCE	Organization for Security and Cooperation in Europe
OSI	Open Society Institute
PD IV	Political Department IV from the Federal Department of Foreign Affairs
PDV	Prevention of Domestic Violence Project
PIU	Project Implementation Unit
PO RD	Public Organisation Rushdi Dehot
ProDoc	Project Document
RDN	Rural Development Network
RoL	Rule of Law
SCO	Swiss Cooperation Office
SDC	Swiss Agency for Development and Cooperation
seco	Swiss State Secretariat for Economic Affairs
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Fund
UN Women	United Nations Entity for Gender Equality and the Empowerment of Women
UPR	Universal Periodic Review (by the UN Council of Human Rights)
USAID	US government agency providing economic and humanitarian assistance
WB	World Bank
WFP	World Food Programme

Executive Summary

In August 2011 a multidisciplinary team consisting of 2 international and 1 national experts conducted an external review on the SDC Programme of Rule of Law / Access to Justice in Tajikistan. The objective of the external review was to assess the performance and effectiveness of the whole programme, including the related projects, to crosscheck the relevance and impact logic of the new cooperation strategy and to provide guidance to adapt and develop the future Swiss involvement in the RoL/Access to Justice sector in Tajikistan.

Beside an assessment of the whole SDC approach in the field of Rule of Law / Access to Justice with regard to relevance, efficiency, effectiveness and sustainability, the review team was asked to pay particular attention to two projects within the Programme:

- a) The GOPA-implemented PDV (Prevention of Domestic Violence) project aimed at improving public awareness on domestic violence and access to services for victims, as well as at the development of advocacy campaigns through mass media;
- b) The Helvetas-implemented project aimed at advising and supporting local farmers and Dekhan communities with regard to land rights through a strengthened Network of Legal Aid Centre (NetLAC project).

In order to efficiently review simultaneously the entire thematic programme and the different projects and interventions it encompasses, the review team designed a self-assessment-exercise and sent a questionnaire to all involved parties four weeks before travelling to Tajikistan. The answers were analysed by the review team and served as a solid basis for more in-depth interviews with SCO, PD IV and implementation partners to better. During the mission to Tajikistan the review team conducted more than 50 meetings, focus group discussion and interviews with representatives of the Government of Tajikistan, UN organisations, bilateral donors including the donor coordination mechanism and the dialogue with GoT, as well as with related project partners, local NGOs, HR activists and Legal Aid Centres. At the end of the mission, the effectiveness of the SDC programme was crosschecked and discussed in a consolidation workshop with all SCO key staff, representatives from implementing partners and local partner organisations.

The PDV project has been building up over the past decade and has used effectively its influence at local level to raise awareness and to improve access to services with respect to domestic violence. However, the project lacks coherence with programme related aspects, and should strengthen its links at policy level with regard to rule of law and access to justice.

The design of the NetLAC project was based on wrong assumptions regarding the network building approach and the maturity of the designated Network Facilitation NGO, Rushdi Dehot. Both, the tender documentation produced under the responsibility of SDC and the project implementation strategy developed by Helvetas have lacked cross-checking with reality. As a result the review team learned about the project's difficult start and identified missed opportunities and shortcomings during implementation. Several options for the future of NetLAC project were discussed with Helvetas and the NGO Rushdi Dehot; subsequently the review team proposes to integrate the

relevant topic of legal issues related to land and land rights with other legal aid provision activities within the future SDC RoL / Access to Justice programme.

Regarding the SDC RoL / Access to Justice programme the review team concluded that the programme is in fact a portfolio of four more or less independently working projects, due to the fact that coherence and coordination among the players is weak. Not all activities are managed in a comprehensive manner for seeking “systemic change” at macro level, and the “One Voice Switzerland” is fragmented and only based on specific topics.

If the mentioned shortcomings can be overcome, the review team strongly believes that the SDC RoL / Access to Justice portfolio has an promising basis to become a coherent and strong pillar within the country strategy 2012 – 2015 and will make a difference by influencing systemic change in the development of the justice system in Tajikistan.

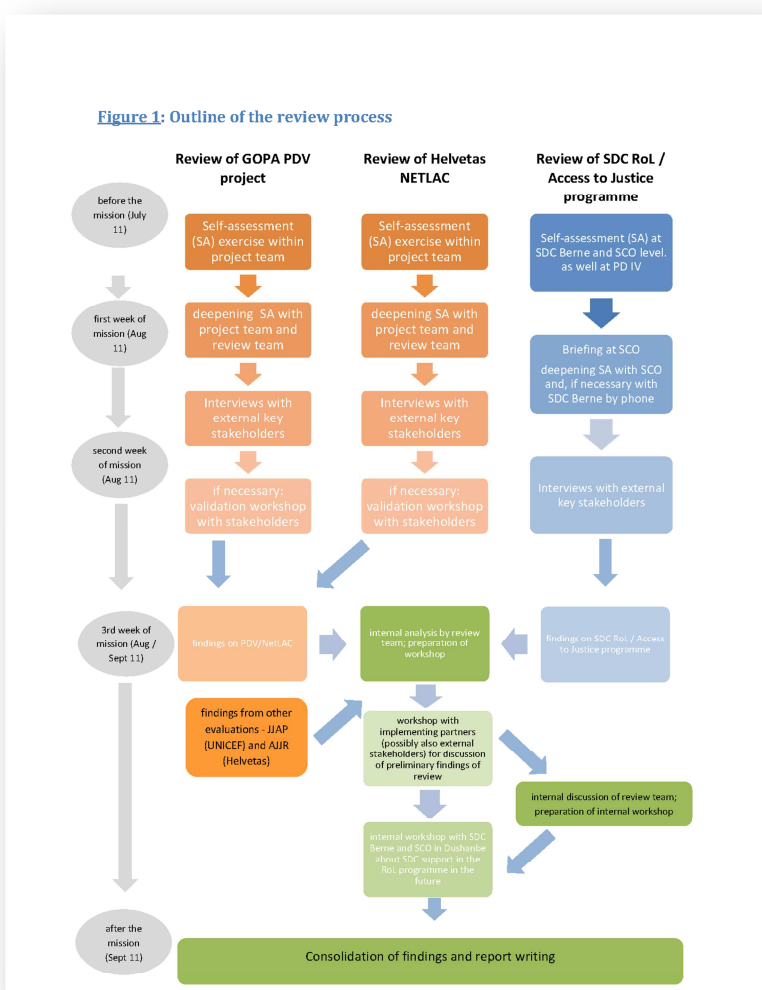
1. Introduction

1.1 Methodology

As foreseen, the review team conducted a self-assessment with all concerned partners such as SDC HO, SCO, NetLAC, PDV. Only PD IV hasn't returned their questionnaire but was ready to answer some questions within a telephone interview on Friday, 16.09.2011. During the 3 weeks in-country mission, the team met with more than 50 different organisations in the scope of the SDC programme. Among them have been representatives of the Government of Tajikistan, UN

Organisations, bilateral donors, related project partners, local NGOs, HR activists and Legal Aid Centres. Furthermore the donor coordination mechanism (DCC) and its dialogue with the GoT were examined.

In two feedback meetings together with NetLAC, Helvetas and PDV GOPA the review team already shared their preliminary findings with the Implementing Partners. The consolidation workshop on 1 September with the participation of more than 30 persons of 4 Implementing Partners including the SCO brought up an interesting discussion on how the SDC Programme on RoL/Access to Justice is influencing the systemic change in the Justice System



on all levels.

Finally, on 2 September 11, an internal SCO debriefing meeting was undertaken. Please find above the graph on the review process as already presented in the inception report.

1.2 Context analysis and SDC strategy¹

1.2.1 Context

Shortly after the collapse of the Soviet Union, a fierce civil war broke out in Tajikistan which lasted until 1997. Much of today's political situation originated during this time including an authoritarian presidency relying on and supported by clans as well as an endemic corruption system. To this date, the memory of the civil war highly affects the population and has so far prevented the kind of protests which have happened in other post soviet countries or more recently in the Middle East.

Since its independence, a process of de-secularization has been taking place in Tajikistan resulting in an increased return to traditional values and gender roles, in particular in rural areas. Limited investment is made in girls and women are first in line to suffer the deterioration of social and other public services. Migration is not empowering women left behind but on the contrary reinforces their vulnerability. In general, the country is marked by social, economic, environmental and political fragility which puts the government's legitimacy in question. Apart from an excessive concentration of power in the hands of a narrow group of top-level politicians, the increasing influence of the global economy, an "accountability gap" between the State and its people, and the rise of radical movements and Islamic organisations, all contribute to further increase the fragility of Tajikistan.

1.2.2 Country Development Priorities

The government of Tajikistan (GoT) has established a National Development Strategy (2005-2015) and a Poverty Reduction Strategy (2010-2012). Together with the international community, these two documents have recently been translated into concrete intervention plans for the different areas concerned. The main focus is on **agrarian reform**, energy and economic development. **Social reforms are unfortunately not a priority** for the GoT at the moment. In addition to the NDS and PRS, sector strategies were developed with the support of the donors. However, the ownership of the GoT on these strategies is questionable and the level of implementation remains problematic.

1.2.3 Strategic orientations for 2012-2015

In the light of existing resources and on the basis of a sector analysis and assessment, it was decided to reduce the number of sub-sectors in Tajikistan that were too numerous and were challenging the overall performance of the program. The most performing and effective sectors of the present program were selected to be included in the forthcoming Tajik program (Health, Rule of Law, Water Supply and Sanitation, Private Sector Development). Consequently, the overall goal for the Swiss Cooperation in Tajikistan is: **Switzerland supports the transition process in Tajikistan by contributing to the economic development and by helping to build institutions and systems which are responsive to the population's needs.**

¹ Source for this section: SWISS COOPERATION STRATEGY 2012 – 2015 FOR CENTRAL ASIA, CONCEPT NOTE, 2011.

<i>Domains</i>	<i>Whom?</i>	<i>budget indication</i>	<i>activities</i>
Health	SDC	planned budget of 12 million	Men and women enjoy better health thanks to improved primary care services and health promotion.
Private Sector Development	seco	planned budget of 10.8 Mio million CHF	Contribute to the development of the private sector, leading to job creation, economic growth and ultimately poverty reduction.
Water Supply and Sanitation	SDC & seco	planned budget of 32 million CHF	Contribute to the provision of reliable and affordable drinking water and sanitation services at decentralized level.
Rule of Law	SDC & PDIV	planned budget of 15 million CHF	Contribute to build a legal and judicial system which is responsive and accessible to all and to build confidence in the system.

Summary of the strategic orientations for 2012 - 2015

All interventions will include the transversal themes of **fragility, governance and gender** sensitivity. The Do-No-Harm approach and CSPM will consistently be applied across all programs and projects in order to minimize the risk of fuelling existing tensions or creating new ones, aiming at the same time to reduce conflict potential. An important factor of fragility in Tajikistan is the large accountability gap between the government and civil society. All programs under the new strategy will thus work both with **rights holders and duty bearers**, striving to empower the civil society to become a credible interlocutor of the government and ultimately to reconnect the two sides through partnerships and dialogue. Regional disparities are another main factor of conflict and will be taken into account by the Swiss program. A further requirement of fragility is the need to **work on processes and strengthening institutions**, necessitating a long term approach. Equitable participation in decision-making processes as well as **transparency and accountability** in the public administration are crucial governance principles for improving public services such as health and potable water but also **access to justice** and the creation of a business enabling environment. These principles will therefore continue to be included in the design of Swiss interventions. A good balance will be sought between service delivery at the decentralized level and policy dialogue on reforms agenda at the national level. All Swiss Cooperation activities try to address the issue of equal opportunities and access to resources and services. Special attention is dedicated to the specific needs of women due to their vulnerable status. More emphasis will also be placed upon working with Youth as more than 50% of the country's population is under 18.

2. Review team's findings

2.1 Assessment of the PDV project implemented by GOPA

2.1.1 Relevance of the PDV project

According to all background documents (e.g. "Equal before the law?", Eurasia Foundation, March 2011) consulted during the desk study, as well as the interviews during the field mission, it appears that combating domestic violence remains fully relevant in Tajikistan; it was in particular reported by

local NGOs that the number of female suicide by immolation due to DV was on the increase. As tragic as it is, whether this issue is the most pressing for the country remains open to question; this notwithstanding, as will be explained later, SDC has over the years established a niche for itself in this field.

According to all the information received, but without the capacity to conduct in-depth surveys by itself, the review mission can determine that, over the past ten years, the project has had a marked influence in raising awareness at the national level and, more specifically, in the selected region of Southern Tajikistan. Nevertheless, much remains to be done, not least the adoption of a law on domestic violence, which is apparently to be discussed and, hopefully, approved by Parliament in November/December 2011. The implementation of the adopted legislation will present the project with its next challenge.

In terms of coherence with the overall programme, aspects directly related to rule of law and access to justice within PDV would need to be strengthened, as will be outlined here below.

2.1.2 Analysis of the efficiency and effectiveness of the PDV project

Awareness-raising through media and training:

- According to statements by interviewees (whether or not directly involved in the project, or even simple observers), as well as on the basis of visual evidence seen by the evaluators, the review determined that the media campaigns seemed to improve awareness and visibility of the phenomenon, of the project and, ultimately, of SDC;
- Innovative ways of disseminating messages were noticed, such as using cartoons on TV and using the same character as on TV as in the training materials; this is likely to create a branding for the project;
- As far as the review could assess, messages seem to be appropriate, as they are based on local culture and traditions; they for instance refer to, and rely on religion and religious figures;
- The messages include a reference to the punishment of perpetrators; nevertheless, this aspect is rather peripheral and could be strengthened to better demonstrate the consequences and risks of engaging in domestic violence;
- The flip-charts used in awareness raising and training are easy to understand, very practical and handy for local NGOs;
- The journalism competition on the best article related to domestic violence, which is supported by PD IV, is an innovative approach and has proved increasingly successful – for instance by attracting more male journalists in its second edition.

Legal resources:

1. The review noted a marked weakness of the project in terms of legal resources and expertise. Such a situation is clearly sub-optimal for a project being an integral part of a programme dealing with rule of law and access to justice. Indeed, the GOPA team in Dushanbe does not include a legal expert, whose potential role is outlined in the

recommendations below. Furthermore, only one lawyer is currently employed, on a time-share basis, for all implementing partners in the in Khatlon region. The idea of a employing a specialist on a time-share basis is good, but the current set-up is clearly insufficient in light of the needs for legal services.

Local initiative groups:

Such groups were created at the grass-root level in the context of awareness raising campaigns through local NGO partner, and this already during previous phases of the PDV project. The review was made aware of their existence, almost by chance, in interviews with local partners; it was surprising that neither SDC nor PDV had mentioned them in earlier briefings. It was later explained that little expectations had been placed in the performance and sustainability of such groups; the review found that assessment pessimistic. In fact, these initiatives proved to be a success story, as will be explained below. Some of the characteristics of the groups are outline here below:

- Men and women participate in all the groups met;
- Out of three groups met, two present a strong involvement of law enforcement, not only with regard to the prevention of DV but also, and this is important to note, with regard to the punishment of perpetrators;
- All groups include a strong participation of religious leaders;
- Likewise, local authorities are involved in, and appreciate, the work of the groups.

In one group, the review noted a misunderstanding of one aspect of the project's approach, which led to an unexpected outcome, namely hindering access to justice instead of facilitating it. Basically, what happened in this village is that both the Imam and the head of local government were strongly opposed to resorting to legal services or to involving the police in cases of domestic violence, as this was, according to them, not foreseen by sharia and risked "tarnishing the image of the village". Such an attitude is not surprising (*see textbox below*), especially in this particularly conservative region of Tajikistan. Nevertheless, it is a worrying trend because:

1. It shows that one of the project's main message was either not understood or not accepted;
2. The project has raised the awareness of victims of domestic violence with regard to their right, and the local groups have raised their expectations as to ways to get out of their predicament; however, protection and reparation afforded by the law and enforcement agencies is then denied to them – a frustrating outcome;
3. The rampant de-secularisation of the country is likely to make such attitudes more prevalent.

The difficulties in dealing with domestic violence

"The unwillingness to involve others (is) more pronounced with family disputes and domestic violence, especially in Tajikistan. There, almost half the respondents thought that a woman should not involve an outside authority in stopping physical abuse in the home. Focus group discussions suggested that this was because exposing discord would bring shame upon a family."

"Equal before the law?", Eurasia Foundation, March 2011.

The review team was genuinely impressed by the enthusiasm, dedication and sense of empowerment and ownership displayed by members of the initiative groups – *see textbox below*. These structures function autonomously, with limited technical support from the partner NGO and no financial contributions. In one village, the local authorities even provided free-of-charge office space in the school. All these characteristics make these initiatives self-sustainable success stories.

Quotes from review team's visit to local initiative groups (Saturday, 20.08.2011)

Different women of the initiative groups:

- Woman member I "We are the leaders. We are confident to work on our own. In case we need expertise we contact Khamroz NGO."
- Woman member II: "We are volunteers! It's for our people! We get no compensation for our work, only food at meetings organised by our partner NGO."
- Woman member III: "Khamroz NGO is very close to our people. We really feel full back-up. There are here for us."
- Woman member IV: "We are empowered to go to families and intervene."
- Woman member V of an initiative group: "Whenever there is a dispute, before we go to Khamroz NGO, we go to the initiative group."

Police involved in two initiative groups:

- Police Major: "From my professional opinion I can say, there is a decrease of DV in the villages where Khamroz NGO works".

Partnerships and relations of the project:

- Partner NGOs in the Khatlon region² seem to be strong organisations with their own fundraising – i.e. they are not *totally* dependent on SDC's financial support due to successful acquisition of some complementary funding sources;
- The project employs religious leader; it nevertheless remains to be seen whether paying for the services of Imams is actually appropriate and productive; indeed, why should they be paid to do a job that is actually part of their own vocation? What message does that convey to the population?
- The shift from 100% core contribution to more activity-oriented payment is now accepted and expected by partners, and GOPA should continue with this modality in order to foster sustainability;
- All organisations involved declared their preference for working with GOPA (as opposed to their previous relations with SDC's PIU) in terms of project management, administrative procedures and technical support;
- PDV appreciated its relation with the SCO, which did not display "overbearing attention" on the project implementation;

² Crisis Center "Ghamkori", NGO "Khamroz" and NGO "Mahbuba".

- Implementing NGOs described their relationship with PDV as “partnership, not control”; they mentioned some issues which they could not handle without the support of PDV, namely:
 - Training materials;
 - Formulation of an advocacy strategy;
 - Lobbying of authorities.
- Local NGOs took some initiatives independently of the project, such as convening joint weekly meetings of trainers in order to exchange experience, refer cases and identify synergies; it seems that implementing NGOs in the PDV project can be considered as a real “network of NGOs” (in contrast to the artificial network of the NetLAC project), even though the involvement of a “facilitator” is very limited;
- The project document foresees that the Committee on Women and Family Affairs is to be the strategic partner of PDV project. In fact, the relationship is weak and non-strategic. This is mostly due to the personality and political aspirations of the Head of the Committee and her consequent lack of political will to be involved, as well as to deal with international stakeholders.
- The only public crisis centre in Tajikistan, the crisis centre of the city of Dushanbe, was recently created by the capital’s Mayor. The NGO crisis centre “Bovari” seized this opportunity to create a synergic and mutually supportive relationship with this new government-sponsored initiative.
- Despite all the assistance provided to victims, the missing link in the chain of services offered to them is shelters where they can be protected once they have been taken away from a dangerous situation at home.
- The fact that the Police Academy has recently decided to include PDV’s modules on domestic violence in its own curriculum can be considered a success by the project in terms of fostering national ownership and sustainability. It is nevertheless advisable to continue providing technical assistance, when needed and as appropriate, to the Academy in order to ensure sustainability and further effectiveness of these achievements, as well as to monitor the quality of the training dispensed there. Furthermore, additional support will be needed in publishing the Academy’s manual on DV. PDV has actively participated in the gender thematic group (the main forum for international stakeholders to discuss gender issues, as well as to exchange information and coordinate their interventions) and has thereby built a strong link with UN Women;
- In contrast, the project has only weak linkages with the working group on access to justice for victims of DV, a forum convened by Helvetas. Indeed, PDV rarely participates therein and, when it does, it is not at a sufficiently high level. In terms of synergies within the programme, this is a point to be tackled without delay;
- In general, the review found the project somewhat weak in terms of lobbying and advocacy with regard to capitalising on, and elevating the achievements at grassroots level to the meso and national levels.
- The review team sees here a missing link caused by the fact that the SDC programme is not well coordinated and the involvement in lobbying and advocacy at governmental level is not as comprehensive and strong as it should be; SDC programme management and the AJJR project should have a key role in this respect;

- The review did not understand why, given its expertise, PDV is not involved in the courses on DV dispensed by the Judicial Training Centre. This is all the more important in the face of the fact that the JTI has reduced its curriculum from four to two hours, apparently acting on instruction from the Council of Justice, based on the fact that the draft law has not yet been adopted. The review team finds this reasoning somewhat odd.

2.1.3 Recommendations to the PDV project team and GOPA

- The dialogue with local authorities and religious leaders about DV should be intensified; PDV can ease this process by continuing advocacy and on-the-job training for partner NGOs. Furthermore, the project can provide assistance in dialogue with provincial and national authorities.
- The review noted a marked weakness of the project in terms of legal resources and expertise. The following improvements are therefore recommended:
 1. The PMU team should include a lawyer, at least on a part-time basis. This specialist would be responsible for the following aspects of the project:
 - a. Train partners with regard to the legal aspects of combating domestic violence;
 - b. Coordinate and exchange experience with legal aid providers in general and, more specifically, with the AJJR network; more specifically, provide expertise on combating domestic violence to the latter, especially given the fact that a large proportion of their cases concern this type of violations;
 - c. Contribute to the inclusion of cases in the CMS database and participate in the analysis of trends and jurisprudence;
 - d. Contribute legal expertise in the production of the project's materials;
 - e. Actively provide legal expertise and lobby in the process of the further drafting of the law on domestic violence, as well as in the elaboration of its future implementation mechanisms;
 - f. More generally, assist in steering the project away from awareness raising and prevention and towards a more prosecutorial approach to perpetrators of domestic violence.

2. Human resources with regard to legal expertise should be increased in the Khatlon region.

Although the previous model of part-time employment of lawyers (70 % on contract and 30% free-lance) has been assessed as unsatisfactory by the lawyers (and the NGOs), the project should consider an exit in a couple of years while, in the meantime, preparing for the potential implications of the future adoption of a law on free legal aid.

- Although PDV staff is involved in day-to-day assistance to the local NGOs in various management issues, the review team believes that a separate component on organisational development and management training for partner organisations should be added to the results framework of the

PDV project team. Such training and support would make local NGOs stronger in their own activities and lead to a good basis to start preparing the future scaling out of Swiss funding.

- The adoption of the law on domestic violence will obviously mark a milestone. Nevertheless, this will only be the beginning of a more challenging process, namely the setting up of mechanisms for the law's implementation. The project needs to already start elaborating a solid strategic plan on how to deal with this crucial next phase. Such a challenge nevertheless also presents a strategic opportunity for the project, namely the possibility to create for itself a niche in influencing systemic change by lobbying and assisting the Government. Here again, legal expertise will be needed.
- The project has intensively and successfully been involved in training and awareness-raising over the past decade. The question at this stage is whether such an approach is still needed or whether there is rather training fatigue on the part of recipients in the Khatlon region. One may think that it is time to up-scale and replicate the model in different regions. The review team, however, takes the view that this is not the most strategic manner to move forward. Indeed, it believes that time has come to capitalize on this decade-long experience and adjust the approach accordingly. It therefore suggests the following steps:
 1. Scope the whole country to establish which training models already exist, i.e. learn about how other stakeholders are designing and conducting training, and on which issues;
 2. Identify the main players and analyse the different training patterns and practices, then discuss with others about future options for cooperation and synergies;
 3. On the basis of the previous steps, develop the needed information and training materials to be used by other organisations;
 4. Using these materials, conduct Training for Trainers where needs have been identified in Tajikistan.
- Initially, this new approach will require a substantial investment to be rolled out throughout the country. It should factor-in the risk that not all stakeholders will be willing to share information and take part in the process. The idea here is that minimal investment into one-time training of trainers and distribution of material will succeed only in some cases, but that the sheer repetition of the exercise will ensure sufficient coverage in as many places as possible.
- In other words, the project should become a competence centre tasked with developing reference materials or modules, and then building the capacity and empowering others to take over the responsibility for media relations, awareness raising and training at the micro and meso levels.
- The project would then have the necessary time and resources to refocus on more strategic issues, for instance:
 - PDV should prepare an exit strategy during the next phase for partner organisations in the Khatlon region;
 - Domestic violence should be tackled more comprehensively in the political dialogue, e.g. with regard to the law and its future implementation;
 - As determined earlier, the missing link in the protection of victims is the existence of shelters; PDV should be strategic in lobbying for the creation of at least one government-

funded shelter (without the project itself being financially involved) and in trying to attract other donors or international NGOs for additional financing of local NGOs;

- PDV, with the support of the SCO, should try to attract other donors or international NGOs in contributing financially in some of the components (e.g. printing of material, training of trainers in a specific geographical region, etc.) of the competence centre described above.

2.1.4 Recommendations to the SCO

The SCO has a strategic role to play with regard to the issue of DV, not least because it is one of the topics of the HR dialogue. Accordingly, it should be, together with PD IV (who as the lead), more involved on issues related to lobbying and advocacy at the meso and macro levels;

- The small amount and low level of exchange between PDV and AJR is deemed by the review to be counter-productive and a negative factor in the broader coherence of the programme. In the future, the SCO should be more proactive in playing the role of a “foresighted programme manager” which should lead to a better internal exchange and coordination among the project partners.

2.2 Assessment of NetLAC project implemented by Helvetas Swiss Intercooperation

2.2.1 Relevance of NetLAC project

Several studies and surveys, both those sponsored by SDC and those conducted by other stakeholders, clearly demonstrate that awareness-raising on legal issues related to land rights is relevant and topical, in particular given the on-going process of land reform. Likewise, providing legal aid to individual farmers and Dekhan communities is needed.

“Basic research on present day Tajikistan quickly shows that land rights are an important area for intervention. Similarly, there are a number of local NGOs whose orientation makes them well suited to providing legal advocacy on the issue, subject to proper capacity building, development of experience, etc. Thus, the concept of providing support to civil society to conduct legal advocacy on land rights issues seems quite logical. The issue is the manner in which this support is conducted.”

Mission Report: Brian Rohan, Development of Advocacy Strategy in the NetLAC Project, Tajikistan, July 25 to August 1, 2011.

It must nevertheless be pointed out that the NetLAC project implemented by Helvetas Swiss Intercooperation (thereafter referred to simply as Helvetas) is, at this stage, only involved in the training of legal aid providers and in awareness-raising. In other words, it has not directly supported the provision of legal aid services to clients. One could consider this to be a “missing link” or incoherence in the approach; indeed, it is questionable to make farmers aware of their rights without, in parallel, providing them with concrete ways and means to have them enforced. It is likely that this incomplete offer may lead to frustration and disillusionment.

Creating a network of legal aid centres (LACs) is seen as the first step towards a better exchange between LACs and a way towards creating a sustainable network structure, a platform for exchange of expertise, as well as strengthening of synergies, coordination, referral of cases, common fundraising strategies and consolidated advocacy initiatives. Whereas the model, in itself, appears relevant, the following sections will examine whether the current project is, in its current approach, conception and set-up, likely to achieve its stated objectives.

2.1.2 Design of NetLAC project

In this section, the review will show how the project was, from its inception, based on incorrect assumptions and missed opportunities.

SDC tender document

The SDC tender documents were prepared based on an incomplete and faulty analysis and, consequently, incorrect assumptions, namely:

- From the start, it was rather unclear whether the “public organisation” (NGO) Rusdi Dehot (herein after referred to as PO RD) had already established a genuine and functioning network of LACs – or not;
- The desk study by KasWag was over-optimistic in presenting donors’ willingness to support financially LACs; indeed, while such willingness appears to have been expressed by persons met (or reports read) at the time, it was interpreted as a firm engagement – which rapidly disappeared thereafter, a fact that was not sufficiently anticipated or subsequently acknowledged;
- The subsequent concept note, prepared by a consultant, already predefined the set-up and the overall budget of the future project, and this without knowing the actual needs or analysing the necessary steps for developing a functioning network;
- Furthermore, no deeper assessment was carried out to determine whether the newly established PO RD had the capacity to effectively take up the responsibility of overall facilitator and manager of a (newly established) network. In other words, a proper due-diligence exercise was missing;
- In addition, the concept note presumed that a network really existed, whereas it appeared to rather be a *coalition* of NGOs whose main common characteristic was to have been involved together in the Chemonics project and to be looking for common fundraising; in other words, the network existed only on paper;
- Finally, there was already at that stage a lack of clarity and confusion between the “Rusdi Dehot Network (RDN)” and “PO RD” as an NGO; this confusion continues to date, and it remains difficult to understand why the network was given the same name as that of its initiating organisation – as opposed to another, more appropriate denomination, such as “NetLAC.”

In conclusion, the project’s concept note and the subsequent SDC tender documents lacked the basic understanding of how a network develops. The note went as far as predefining, and in the

mind of Helvetas, *imposing*, the facilitating organisation (PO RD) and, therefore, hampered the network's autonomous and organic evolution. This approach was aptly described as "top-down".

Defining a "network"

"Optimally, a network should develop out of a naturally occurring common desire among different organizations to strengthen collaboration, share resources and information, etc. Network members should be motivated to work together because they see the benefits that the network can provide to each individual organization, as well as to the overall level of substantive output that can be achieved through network collaboration, etc. Typically, the network evolves over time, and is a very "bottom up" creation by its members. Finally, its functions, and structure are specifically designed to suit the members' needs, and are validated by the members themselves."

Mission Report: Brian Rohan, Development of Advocacy Strategy in the NetLAC Project, Tajikistan, July 25 to August 1, 2011.

Tender proposal written by Helvetas

Helvetas missed the opportunity to act on the information it had collected from its initial assessment of PO RD. Indeed, if Helvetas already had, at that initial stage, doubts about the partner included in the tender, it had the opportunity to let it known to SDC and to suggest an alternative.

ProDoc of Helvetas

After SDC had given the mandate to Helvetas, the latter conducted further discussion and correspondence with RD before the start up of the project. However, Helvetas did not take the difficult but necessary decision to challenge SDC's choice of the partner. Rather, Helvetas chose to engage in the frustrating eight-month exercise of building the capacity of PO RD, basically from scratch, and to draft the project document on this weak basis.

Therefore, rather than correct the erroneous assumptions and incoherent approach contained in SDC's tender, Helvetas continued on the course previously set. The log frame (prepared during the inception phase) continues describing an "ideal situation" of the RDN network building around PO RD. It must nevertheless be noted that, in some passages of the ProDoc, doubts and acknowledgement of unrealistic assumptions (e.g. PO RD has not the desired capacity; LACs are not fulfilling the set criteria to join the network) are mentioned.

The review considers that the lack of flexibility by both SCO and Helvetas created a situation where the log frame was not updated based on the real situation and on the difficult working relation with PO RD, which had become apparent already during the inception phase of the project.

Appropriateness of the choice of implementing partners

As explained above, the pre-determined choice of PO RD in SDC's tender was questionable. But was the choice of Helvetas the correct one? In fact, this question can be traced back to the choice of this organisation a few years earlier in the framework of the AJJR project. The assessment of Helvetas at the time is summarised in the textbox below:

Evaluation of Helvetas' offer for SDC's 2008 Access to Justice (AJJR project) tender:

- *Networking/advocacy: Generally experienced in advocacy and networking, but not much in the area (law) under review.*
- *Experience and understanding of legal reform process: Good as far as the consultants are concerned; low for Helvetas as such.*
- *Institutional set-up: The value-added of Helvetas (HQ and Dushanbe) to the proposed team is not evident.*
- *Experience and understanding of participatory development approaches: Helvetas generally knowledgeable of approaches, but will have to rely on the proposed team to properly take into account the specificities of access to justice.*
- *Pool of expertise: Helvetas itself presumably has only moderate access to further expertise; however, the individual staff proposed can be expected to remedy this relative weakness.*

2.1.3 Implementation / Efficiency of NetLAC

Helvetas in role of implementer versus role of SDC as donor

The review noted that the lines between Helvetas as implementer and SDC as donor have not always been drawn clearly. SDC has sometimes given advice ranging e.g. from the eligibility of grantees of the Development fund and the instruction not to provide core funding to grantees to the cooperation with PO RD. Although close cooperation was appreciated, these advices have influenced the implementation strategies of Helvetas.

Helvetas as partner for PO RD / RDN

The review noted close cooperation and synergies between Helvetas and USAID/Chemonics; this was embodied in a MoU signed with regard to projects on land issues. Nevertheless it should be noted that exchange seems so far to be taking place mostly at the expatriate level.

Helvetas, as noted earlier, has initially made considerable efforts to get PO RD on board in fulfilling its function as facilitator and manager of RDN. However, as will be seen below, this has been a long and frustrating endeavour on both sides; this sub-optimal situation was compounded by a staffing gap of several months in Helvetas' management of the NetLAC project. However, the Project Manager was aware of her limited capacities due to her work division as AJJR Project Manager and Helvetas Country Director as well and suggested to change the position of Senior Technical Advisor to Project Manager, at the departure of the former, in order to shore up the management of the Project. This suggestion was accepted by SDC and a Project Manager was recruited and put in place at the beginning of August 2010.

It was acknowledged by all those involved that relations between Helvetas and PO RD became increasingly undermined by communication problems and mistrust. It seems that, at the present (advanced) stage of the project cycle, there are still on-going disputes about *basic* understanding of roles and responsibilities between Helvetas and PO RD.

In addition, it is difficult for the review team to understand why Helvetas, as the *donor and capacity-builder* of PO RD, has been taking upon itself some of the task of PO RD, e.g. logo of PO RD not mentioned in the Helvetas/USAID brochure (a publication in which the network, curiously, was not actively involved), or why a survey on legal issues of farmers was sub-contracted to an entity not taking part in the project, i.e. Zerkalo.

More generally, the review team heard from PO RD and LACs that Helvetas often displays a counterproductive attitude towards partner organisations. The following words were often heard: mistrust, excessive control, strange/changing financial procedures and, recurrently, sanctions. An illustration of this is provided by the ambiguous role of Helvetas Regional Coordinators sitting in RD regional RDN offices: do they control PO RD or do they coach them in their facilitation and capacity-building work? Both roles, played simultaneously, are incompatible and create an unhealthy atmosphere.

These issues raise the question as to whether Helvetas, as an international NGO, possesses the institutional capacity and back-up services from Head Office (see also above the remarks on the selection of Helvetas in the AJJR tender) needed to run a project on legal issues – this remark should not be construed as criticism of project staff's legal expertise in Dushanbe.

The following shortcomings of the NetLAC project were also noted during implementation:

- The NetLAC project is not engaged in advocacy with regard to the agrarian reform and land issues at GoT level;
- There is therefore a missing link on influencing changes in the legal and judiciary systems;
- Insufficient attention has been given by the project to working with local authorities and involving them systematically in specific awareness raising and training events;
- A comprehensive link to NGOs working on rural advisory services (agricultural extension) is missing;
- So far, no training has been provided for judges on land tenure or land rights.

Helvetas as manager of the Development Fund

The initial project idea stated in the ProDoc was that, beside the function of empowering PO RD as facilitator of RDN, the NetLAC project should be given the responsibility of managing the Development Fund (DF) as a financial tool for triggering activities within the RDN. Therefore, the DF was considered to be a financial instrument for RDN member organisations to develop innovative products and services and, subsequently, attract other donors for core-funding of NGO activities. The review team learned that, in reality, there was very little exchange and cross-fertilisation in the

function of NetLAC as capacity builder and coach, as well as in the function of the Development Fund as a catalyst for NGOs in the context of land legal issues.

The review team learned from the visits to LACs that the management of the DF is not always effective and efficient:

- The funding mechanism is not embedded in the RDN as was planned in the initial project design; it rather seems to be part of PR RD's own turf, with some involvement from the designated international stakeholders;
- Only little seems to be done in terms of capacity building of, or *ad-hoc* support to grantees;
- The DF only provides funds for training and awareness raising (fees for trainers, transport costs, etc), but no core-contribution or salaries for LACs; this last point is due to an implementation strategy not sufficiently taking into consideration the operational realities of the grantees, including the fact that the administrative management of the granted funds is, in itself, taking away resources from grantees, instead of allowing them to fully implement the foreseen activities, as is explained below;
- DF money is, on explicit request of SDC, paid to both certified organisations (members of RDN) and not-members. This is perceived as counterproductive and discouraging for RDN member organisations who have gone through a lengthy and laborious vetting process;
- The procedures of the DF are not always clear to LACs and templates and reporting formats have been given late;
- A lot of focus and resources are put by Helvetas in the control of LACs with regard to the use of relatively limited (in amount and length of time) DF funds. This overbearing and labour-intensive monitoring not only slows down the work of grantees, it is actually postponing the attribution of the third instalment of grants.

PO Rushdi Dehot as an organisation

As stated earlier, PO RD does not seem to have a clear understanding of, or strategy for taking up the role of facilitator or coordinator of the RDN. This is partly due to the erroneous and unclear concept and setting-up of the project, but also to the management style of PO RD. Since the review did not have the opportunity to directly observe the group dynamics of the network, it had to rely on the remarks made by another consultant, which largely corresponds to its own (indirect) analysis:

"While some of the Rushdi Dehot staff do seem to have talents useful to the Network, the NGO's leadership and its staff designated to coordinating the Network lack both the skills and perspective necessary to facilitate the Network's development. (...) The attitude of Rushdi Dehot towards other members is controlling, dismissive, condescending and completely disempowering – precisely the opposite of what is needed from a network facilitator. (...) [T]he consultant has never observed such a profoundly dysfunctional situation as between Rushdi Dehot and the other Network members."

Mission Report: Brian Rohan, Development of Advocacy Strategy in the NetLAC Project, Tajikistan, July 25 to August 1, 2011.

The review team noted other issues related to the organization PO RD:

- PO RD seems to make a rather good job in developing training modules on specific topics on a needs-base;
- PO RD did not seem to have a clear set-up and definition of tasks for staff working in its head office in Dushanbe and its Regional Offices;
- PO RD, being a legal aid provider itself (in a separate mandate with ADB funds) never stopped lobbying for its own funding, while at the same time apparently intensifying the high expectation by LACs to receive money for legal aid through the DF;
- PO RD does not seem to understand or accept the role and value-added of Helvetas in implementing the NetLAC project.

Another negative aspect of PO RD's approach is its non-transparent way of fundraising and conducting activities with acquisition money, e.g. it obtained grants from ADB while keeping Helvetas in the dark in this regard. This also raises the question of the focus and role of the organisation: is it a network facilitator *or* a project implementation organisation raising its own funds?

Rural Development Network members

LACs members of the RDN generally provided the review team with a positive assessment of PO RD, for instance:

- Regular meetings and coordination among LACs;
- Reception of trainings and training modules on a needs-basis;
- Provision of support by PO RD (and Helvetas) on day-to-day questions.

This assessment can sound surprising in light of the negative points raised in the previous sections. It can probably be explained by: 1) the (perceived or real) relation of dependency of RDN members towards PO RD; 2) (alleged) previous relations between some staff of PO RD and individuals within LACs; 3) possible fear of retribution for negative comments, if the perception of an unbalanced relationship, as described by Brian Rohan's comments above, are true. It can be noted that at least one non-member LAC representative had less flattering comments about PO RD.

Some of the RDN members mentioned that they would start working with a case management system within the NetLAC project and had already received basic infrastructures such as a laptop and funding to pay for a stable internet connection. Most of them acknowledged the importance of having a system in place, but mentioned that they would need more training in order to be able to fill cases in the system and learn how to use the system for their own work.

The review team nevertheless had the distinct impression that the network was a pyramidal structure, not a horizontal one, and that it had so far had little value-added, for instance in terms of cross-fertilisation and exchange between members. In other words, it was more a structure than an organism.

Non-affiliated LACs

As already mentioned above, grants were paid to member LACs as well as to non-affiliated NGOs. In other words, further to the specific request of SDCs Country Director, the Development Fund calls were open for any organisation. It must be pointed out that such grants only cover a short period (3 to 6 months) and cannot constitute core contribution paid by the DF (see above). In fact, there was very little in terms of capacity development or on-the-job-training given by either Helvetas or PO RD to these non-RDN members.

It was also noted that guidance given by Helvetas on the financial procedures of the DF grants was often unclear or was imposed late in the process. Consequently, recipient LACs had to undertake considerable efforts to fulfil Helvetas' demands with regard to the administration and the subsequent financial reporting on the use of these (modest) funds.

2.2.4 Effectiveness of the NetLAC project

- **Helvetas:** The review team is lacking concrete evidence demonstrating that remarkable outcomes have been reached by Helvetas;
- **On the level of RD:** Improved capacity of PO RD to be the main facilitator, able to coach and support a network of LACs is questionable;
- **On the level of LACs:** The network members are at a very initial stage of self-sustained activities;
- **On the level of local farmers / Dekhan communities:** The review team is not in the position to say anything as to whether the final beneficiaries have a better understanding of their rights or of the ways in which to have them enforced.

2.2.5 Sustainability of the NetLAC project

The review team is of the opinion that the sustainability of this recently-established network cannot be assessed at this stage of the project. Based on discussions with RDN members and the staff of the Chemonics project, the review team can conclude the following:

- A network of LACs on land issue can potentially become sustainable only once the law on legal aid has been adopted and takes effect, including the attribution of a specific budget to cover the costs of legal services;
- The NetLAC project could have used more strategic thinking concerning possible fee-based legal advice for richer farmer. A model in which attorneys work in parallel with private client on a for-profit basis and *pro bono* with poor farmers could enhance sustainability.

2.2.6 Discussed options and recommendations to SDC and SCO

During the feedback given at the end of the review mission to Helvetas, PO RD and SCO (as observer), five different options for the future of the NetLAC project were discussed. It was quite

obvious that a future collaboration between Helvetas and PO RD as network facilitator was not seen as a realistic option by either partner. The option of PO RD joining a new coalition of LACs with Helvetas as an *ad interim* facilitator (see option 4) was not ruled out by PO RD.

Options	Short explanation	Opinion of PO RD	Opinion of Helvetas
Option 1	Stop the project ASAP	total loss of investment	not a good option – total loss of investment
Option 2	Stop in April 2012 and start now an exit strategy for the project	disagreement	Very little can be achieved in such a short time – even worse than option 1
Option 3	Terminate the contract with PO RD; stop in April 2012 and start now an exit strategy for the project	disagreement	A bit better than option 2 – but very little can be achieved in such a short time
Option 4	Terminate contract with PO RD; restart the network under different conditions; develop the next phase	“This is a waste of time. We should think about our beneficiaries!”	Best option. The network can develop naturally. More efficient use of funds to benefit members.
Option 5	Start an external mediation process between PO RD and Helvetas; prepare the next phase; function of the existing network to be rethought	This would be the best option for us. But probably you will not have better results in the future...	Mediation will not solve the key problems

The review team thinks that, in the course of a more focussed future SDC country programme, the thematic scope of projects should be in line with SDC’s strategy. Therefore the review team suggests the following to SDC and SCO:

- Focus all thematic area, as already stated in the draft SDC country strategy 2012 – 2015, in a coherent manner and, consequently, leave aside the domain of Agriculture and Agrarian Reform;
- Do not start a second phase of activities in land issues as a separate project;
- Initiate without delay an exit strategy and close down the project in 2012, but integrate land issues and legal aid to farmers in the AJJR project.

2.3 Short Assessment of the AJJR and JJAP projects

2.3.1 Short assessment of the AJJR project implemented by Helvetas Swiss Intercooperation

AJJR, given its lifetime and scope, can be considered as the flagship or backbone of the SDC programme. It is a hub for various activities (coordination among project partners, capitalisation of experiences, analysis, etc.) and is, or should be, the core of a well-functioning SDC RoL programme.

As such, it is meant to be at the forefront of the implementation of SDC’s strategy. Indeed, it appears that the SCO has sub-contracted or mandated Helvetas to carry out a policy dialogue. The review

found this approach inappropriate, for reasons to be discussed in the section below concerning the programme review.

As for the NetLAC project (see section above), AJJR partners, as well as outside observers, have reported the heavy-handed and controlling style of Helvetas in managing and supervising project implementation. Helvetas, on its part explained, that these measures were taken because previous attempts to correct governance problems over several months remained unsuccessful. This situation has led some outside interlocutors to declare that they would refuse to work with Helvetas, even if they were offered adequate funding to do so.

It must be noted that last year's evaluation of AJJR had made a similar assessment. The evaluators made, *inter alia*, the following recommendation:

- “Adopt a coaching and facilitating role instead of steering and controlling role;
- Explore (with the help of an external specialist, if needed) ways of improving communication and interaction with partners based on trust, mutual respect and sense of partnership.”

Helvetas *has* made effort to improve the manner in which it manages its relations with partners. Although this was to some extent noticed and acknowledged by some partners (one interviewee declared: “at least they don’t shout at us anymore...”), the findings of the present review (see preceding paragraph) remain valid, and should be a matter of concern for SDC.

2.3.2 Short assessment of the JJAP project implemented by UNICEF

Only very little can be said at this stage about this project, given that only one meeting was held with the project manager and the evaluation consultant, *prior* to the internal review of the project. It should also be noted that our review team was not invited to the debriefing of the UNICEF evaluator, which was organised on 31.08.2011, i.e. during the stay of the review team in Dushanbe.

The project is relevant in that SDC's strategy includes youth as a focus area; it must nevertheless be pointed out that the targeted population consists only of juvenile offenders, and therefore excludes promoting and defending the rights of other vulnerable children, for instance victims of human rights violations.

There is a potential advantage of having access to policy dialogue through UNICEF, although it is unclear how far the organisation is effectively engaged in such a process. Furthermore, it was made clear by the UNICEF representative during the consolidation workshop that the organisation was narrowly focused on its mandate on children, to the exclusion of other aspects of SDC's RoL programme. It is therefore unclear at this stage whether the project could effectively become an integral partner within the programme, and how far it would be willing and able to coordinate and seek synergies with other SDC projects.

2.4 Assessment of the current SDC's Rule of Law / Access to Justice Programme in Tajikistan

2.4.1 Relevance and coherence of the current SDC Programme

As stated earlier, all components of the portfolio are relevant to the Tajik context. At the same time, the needs created by the current situation in Tajikistan are of such magnitude that virtually any given project is likely to be relevant. The more interesting question for the review is whether the portfolio is *coherent* or, to put it more simply, whether it can actually constitute a *programme*.

The review reached the conclusion that the “Programme” was in fact a portfolio, i.e. a collection of four separate projects mostly lacking inter-linkages and synergies.

The common denominator of the four projects is their focus on legal aid, in other words assisting rights holders in obtaining access to justice. Provision of such services is surely helpful for the concerned individuals, but this constitutes only a small fraction of the larger issue of the *rule of law* and has only limited reach with regard to bringing about systemic change in the justice sector.

The projects, first of all PDV, also try to increase awareness of rights and to modify attitudes and behaviour. In theory, the strength of the programme is that it seeks to work on all levels (micro, meso and macro). So far, however, (potential) outcomes can only be detected at the micro and meso levels, and little has been achieved at the macro level.

PD IV – synergies and/or overlaps

There is at least one area of connection between the programme and the human rights dialogue, namely domestic violence. This area, rather than an overlap or duplication, can rather be considered in terms of complementarities and synergy – see for example the successful and evolving journalists' competitions organised by the PDV project. In terms of systemic change, however, it remains unclear what the dialogue has been able to achieve in terms of the adoption and, more importantly, the setting-up of effective implementation mechanisms (in particular in regard to government funding) of the law.

More generally, the review can formulate the following recommendations

- PD IV could work more closely and more systematically, hand in hand, with the main topics of SDC's RoL programme;
- The dialogue could be better linked with the PDV project, for instance by building a stronger lobbying alliance and taking-up with the GoT issues identified by the project, rather than relying on the latter more as an implementing agency than a partner – this would however presuppose that PDV increase its involvement and capacity to take up a strategic role, as was explained in the relevant section above;

- “One voice Switzerland” in the selection of topics and clear linkages on micro, meso and macro level would be much better than an unfocused and diverse programme (PD IV and SDC and seco).

Relevance of the SDC Programme, as well as of the approach, to the Tajik context, to national strategies/priorities and to the needs of the intended beneficiaries

Priorities, strategies and national action plans for judicial reform and the adoption of new legislation addressing specific RoL topics seem to be mainly donor-driven, although it must also be pointed out that the Government has taken ownership (at least in terms of political statement) of many of those processes. SDC and its implementing partners do not seem to have been at the forefront of initiating new processes in these areas in the recent past. The SCO (or SDC) does not appear to have given itself sufficient political clout and resources to truly initiate or lead such processes. One could question SDC’s political will to push the latter forward but, it seems, in the final analysis, that SDC lacks in-house expertise and drive to tackle such technical and politically-charged endeavours.

The intended beneficiaries definitely need to be made aware of their rights and given the means to bring their case to court. Theoretically, such an approach does make sense. The question nevertheless remains: is that conducive of systemic change, or is it merely a Band-Aid covering a gashing wound, namely a dysfunctional and corrupt judiciary system? Has legal aid over ten years at the micro level actually changed anything at the macro level? Whereas this is doubtful, this approach has nevertheless provided SDC with a solid reputation and ground to now push for systemic change.

Under the AJJR project, cases are being aggregated and analysed; whether this work is likely to influence government policy remains unclear at this stage. The approach is nevertheless praiseworthy and should be further supported and even strengthened. But even if this analysis proved to constitute sufficient basis for an advocacy initiative towards the government, it remains doubtful that, at this stage, it could be of use. Indeed, who would take up such a responsibility? SDC has remained thus far rather low-key; Helvetas does not have either the status or the clout to challenge the government; international stakeholders (donors and IOs) have gradually retreated from the RoL sector (because work there requires patience, long-term engagement and the capacity to accept that outcomes are hard to come by and difficult to measure); and local partner NGOs, either individually or collectively, do not have the capacity and/or an interest in pushing the agenda forward. As far as the review could determine, the few courageous individuals/NGOs (the two are often the same) likely to challenge the government were not (and did not want to be) associated to Helvetas/AJJR.

SDC, as a bilateral partner, and given its long track-record in the sector, can, and should, play an important role in fostering the dialogue between the civil society organisations and the GoT, as will be explained below.

The two mechanisms a) RoL programme and b) political dialogue on Human Rights should be more closely associated and support one-another.

2.4.2 Efficiency of the current set-up, including with regard to SDC capacities and resources

SDC is still in the process of finding its (new) role being a donor (as opposed to an implementer), with a clear steering function, rather than a coach, mentor, mediator or trouble-shooter for Helvetas project management.

As was stated earlier, most implementing partners were satisfied with the outsourcing of implementation. Working with the new partners was indeed deemed easier and more efficient than dealing with the now disbanded SCO's PIU.

The current NPO's capacities (legal expertise and political savvy), personality and his dense network in the RoL sector will enable him to play a key role in supporting the policy dialogue. Nevertheless, empowering him with these additional responsibilities will first require political will and active support (at HO and country director levels, such as coaching and backing on taking sensitive/risky initiatives/decisions, allowing additional professional training and participation in formative events, providing political and institutional backup with governmental, international and partner stakeholders), as well as additional human resources to alleviate his current burden with regard to administrative and monitoring tasks.

2.4.3 Effectiveness of the current SDC Programme

The synergies between the RoL Programme and the other SDC Programmes were, at best, theoretical. There was willingness to examine closer cooperation, but the pre-requisite step in finding the necessary time and resources to actually find common ground for cooperation and coordination remained elusive.

The review team also examined the extent to which the three transversal themes of the country strategy were, in practice, incorporated across the programme. It is significant that, in the course of some fifty meetings, no one, within the SCO (apart, maybe, from a mention in-passing during the initial briefing), with implementing partners of SDC and with their partners, mentioned these transversal themes.

Although certain synergies could be noted, these were at the implementation and, to a certain extent, at the coordination levels, but not at the strategic level. Consequently, the programme/portfolio was unlikely to bring forward systemic change. As a matter of fact, the review was not in a position to identify any significant systemic change.

Until some substantial effort is put into identifying synergies between sectors and actually taking seriously transversal themes, SDC's intent to have a consolidated and coherent country programme, as foreseen in the succeeding strategies, will remain elusive and wishful thinking.

2.4.4 Effectiveness of the policy dialogue

The issue of policy dialogue has already been addressed in several previous parts of the present report. This section will look at the role of Helvetas as a driver of policy dialogue under a different prism.

The suggestion by Helvetas last year to take the lead in coordinating the four projects was not accepted by the Country Director on the ground that it was the SCO's responsibility. The latter however did not perform this task, which left the programme with neither coordination nor strategic guidance.

Likewise, the link between the programme and the policy dialogue level was not ensured by the SCO, while, at the same time, Helvetas was not in a position to elevate itself, and its SDC-attributed role as coordinator of the RoL sub-Working Group, to the policy level.

The review team believes that, in any case, Helvetas could not be, and should not have been, expected to take up such a responsibility due to its non-governmental status. In addition, the reputation of Helvetas in the RoL community in Tajikistan was such that it could not possibly rally wide support around itself.

Here again, it seems that the capacity of the SCO's team should be strengthened, firstly by diminishing its focus on administrative and monitoring tasks and, secondly, by empowering it to take initiatives and political risks, and this with the support and blessing of the Country Director.

2.4.5 Sustainability

Rather than re-inventing the wheel, the review chose to build upon and follow up on the excellent analysis contained in the 2010 AJJR evaluation report, as quoted in the textbox here below.

Sustainability, as analysed by the 2010 AJJR Evaluation

"Rule of law interventions are often questioned from the point of view of sustainability, particularly in fragile and vulnerable contexts like Tajikistan where the very basics of rule of law (equality before the law, independence and integrity of the judiciary, a coherent legal framework, law enforcement agencies enforcing this framework impartially) are far from ensured. Indeed, a differentiated perspective is needed to assess the sustainability of the project activities with regard to the various objectives.

Under the current circumstances (economic crisis, very limited political willingness to ensure the rule of law) free legal aid services for poor and vulnerable cannot be expected to be sustainable in the medium or even long term. According to many observers, the necessary State resources will not be available during the next ten years. So for some NGOs it even does not make sense to talk about and lobby for a new law on free legal aid – the main option to make this approach sustainable. However, a shortcut from here to a general lack of sustainability of an intervention to support legal aid centres should be avoided. To the contrary: We do see a sound basis for sustainability at all three levels.

- **Legal aid services** *per se* might not be sustainable in the current context, but the empowering effects of legal aid on vulnerable groups, citizens, NGOs, the civil society in general can still be sustainable. In this sense, many

interviewees were convinced that the continuous provision of legal aid and awareness raising have important empowering effects, particularly outside Dushanbe, providing a message that rights and accountability do count. By building legal aid networks among national and international stakeholders, AJJR project interventions also impact on the improvement of partnerships and building a professional legal community, as a basis for civil society coalitions in awareness raising and advocacy for reform– the most important strategy to counter political fragility and risks from political repression.

- The AJJR approach at **meso level** is to support the building of capacities of the JTC. Although there is always the temptation for donors to work around institutions which are weak in terms of management and technical capacities, to support the existing JTC is the only sustainable approach, since it is avoiding parallel structures. Moreover, the government does indeed fund the team of the JTC in terms of salaries and continuously shows some basic commitment to the institution, although activities are financed mostly by donors.

- AJJR's activities at **macro level** in fact aim at making legal reform happen and deepen. They are contributing to the continuity of judicial reform as well as to the quality of donors' interventions in RoL – thus indirectly contributing to sustainability of reforms and keeping access to justice on the political agenda of the Government and civil society.

When designing the next phase, reflections should be made on how best sustainability could be ensured in the various areas of interventions. We would particularly suggest to build in more explicitly the idea of building up and strengthening civil society networks (in parallel to the NetLAC project), based on the assumption that it will be those networks which will make impact sustainable.

AJJR Evaluation Report Erika Schläppi / Dilafruz Nazarova, August 2010

The review agrees with most of the analysis contained in the textbox above. It should nevertheless be pointed out that the adoption of a law on legal aid *will* offer an official framework for *pro bono* legal services providers, which only constitutes a first step and, indeed, not a panacea, towards sustainability. Whereas it is indeed doubtful that the State will allocate budgets to finance free legal aid (see its current failure to do so in criminal cases, as is already provided by law), it will nevertheless provide leverage for civil society and international stakeholders to keep the government to account.

Such a law would also set a framework for attorneys and the bar association(s) to provide *pro bono* legal services. Obviously, such an endeavour would require work with these entities, providing them with capacity building (including with regard to designing a business model for themselves) and incentives (potentially including financial support in an initial trial phase).

3. Review team's recommendations and guidance for the future SDC RoL/Access to Justice Programme in Tajikistan

3.1 Review team's recommendations and guidance regarding the projects

- There should be less projects and these should be more strategically positioned and linked;
- Projects' focus should be less on geographical coverage than on quality and ability to influence systemic change;
- In the immediate future, projects can continue working at the grassroots level; however, their phasing out should be implemented after the next phase;
- Pilot "business models" should be envisaged with regard to NGOs, the bar association(s), small companies (law firms) or individual attorneys working in the field of legal aid – see below for a more detailed recommendation.

3.2 Review team's short assessment on the results framework for the new country strategy

The SCO, namely the NPO and the JPO, has started drafting the future results framework for the country strategy 2012 – 2015, which looks very promising. The review team would like to provide its comment and suggestions on this important document, even if it is at this early stage still work-in-progress.

Outcome statement 1: Improved legal and institutional frame conditions are in place which allow the provision of work for quality professional legal aid service to the population to protect their fundamental rights has become effective and in particular to vulnerable groups.	Comments by the review team
1. <i>Introduction of new methodologies (mediation, paralegals) will increase access to legal aid services, and will allow for a more timely delivery of justice;</i>	Introducing new types of service delivery may seem a good idea at first glance. however: 1) it would seem to be contrary to the need to focus; and 2) such new approach, whereas they would undoubtedly improve service delivery to clients, are unlikely to bring about meaningful systemic change.
2. <i>Developed law and regulations on legal aid services meet the interests of the legal aid providers and the basic needs of population (particularly in the aspect of free legal aid).</i>	This is an important point, keeping however in mind the need for robust, State-owned and funded implementation mechanisms.
3. <i>Conducive legal basis (regulation of bar associations, law on free legal aid) is established for legal aid providers to render quality free legal aid services to vulnerable groups (particularly women, children and pensioners).</i>	Same comment as above. Although pensioners are surely vulnerable in Tajikistan, making them a new target group may further dilute the focus of the programme.
4. <i>A higher degree of institutionalization of legal aid providers as well as increased professionalism lead to an increased role of the legal service providers in the justice system and</i>	Yes, ultimately, legal aid is the responsibility of the State – which does not detract from the necessity to retain

<i>allow them to play an important role in the mechanism of human rights protection. (Popularity, accessibility and trust of people in legal services are improved).</i>	a role for civil society to handle sensitive (e.g. politicized) cases that government-sponsored agencies may not feel comfortable taking up.
Outcome statement 2: The capacities of the Civil Society (Legal Aid Centres, Media, HR NGOs, Women's rights NGOs) are strengthened to allow the civil actors to advocate for better access to social services (legal aid, drinking water, health, etc.) and for the respect of Human Rights (in particular women's right) through active dialogue with the Government.	Comments by the review team
1. <i>National initiatives of legal reforms are developed with participation of the civil society, taking into account the public's needs and opinion.</i>	SDC, as stated earlier in the report, should strive to support increased participation of civil society in policy and reform decision-making. Such participation could expand to cover reform initiatives – see below.
2. <i>Close links with health sector projects are established and identified key problems for access to health services are taken up within the reform dialogue.</i>	Such an approach has been supported by the review team. Health may not be the only sector to be concerned – for instance access to drinking water is mentioned in the outcome statement but not here.
3. <i>There is a platform for dialogue between the Government and the civil society (incl. gender, youth and religious groups).</i>	See above. It would be helpful to elaborate further what is meant by the term “platform”.
4. <i>The Government is able to report transparently on the obligations/commitments in the sphere of HR and legal reforms.</i>	Yes. This may however be outside the sphere of influence of SDC alone, as this requires strong political will on the part of the GoT. Such an outcome would probably need the support of the Swiss HR dialogue and of a concerted effort together with like-minded donors. Here also, civil society has a watchdog role to play.
Outcome statement 3: Improved judicial capacities, strengthened court management practices (reporting and monitoring) and continuous professional education of both men and women judges help to move towards transparent, accountable and fair justice delivery.	Comments by the review team
1. <i>Reporting and statistical system developed in judiciary facilitates better analysis and improves quality of courts' work.</i>	Yes, this is crucial. However, it remains to be seen whether SDC has sufficient experience and technical know-how in this regard. A strategic alliance with UNDP, which has designed and tested such models around the world, could be considered.
2. <i>JTC has adequate capacities to run training programs which help to improve judges' professionalism and quality of the court decision process.</i>	This is merely a continuation of the current programme, albeit with a stronger emphasis on monitoring and quality control.
3. <i>Supervision mechanism after the training modules is place.</i>	Same as above. Such mechanisms would enable SDC to better (and more credibly) report on outcomes achieved by the JTC.
4. <i>Civil society has access to the monitoring of the court</i>	This may be a somewhat idealistic goal

<i>activities (increased transparency).</i>	given the current political context – although it is a very relevant and topical issue.
5. <i>Monitoring results are discussed and feed the reform planning.</i>	Here again, this would be a great result.

3.3 Review team's recommendations and guidance regarding the programme as such

SDC should resist the temptation of simplifying its work by transferring/mainstreaming the domain/sector RoL/Access to Justice into a transversal/cross-cutting topic. Experience in other countries, as well as with regard to gender, have indeed proven that such a move is the best way to drown (and kill) said sector. SDC, unlike other donors, has had the patience to work on this difficult issue over a decade, and quitting it now would be, as some eloquently phrased it, a “missed opportunity”, “shooting oneself in the foot” or “throwing the baby with the bath water.”

Recommendations to SDC by the 2010 AJJR Evaluation

- “Continue to invest in RoL and human rights protection in a long term perspective, supporting and coaching government authorities as well as civil society networks sharing common values;
- Invest in a proactive approach to policy dialogue in the field of RoL and human rights, profiting from the potential of the MFA’s new human rights dialogue;
- Use the data and analysis coming from the projects in the RoL portfolio to frame and substantiate Swiss policy dialogue;
- (Monitor) the links between micro level legal aid services and advocacy for legal reform, particularly the development of a concept for “strategic litigation”;
- Design the next phase of the project with a view to effectively empower local institutions and networks at micro, meso and macro level, and taking into account possible synergies with other RoL projects.”

AJJR Evaluation Report Erika Schläppi / Dilafruz Nazarova, August 2010

The review team fully endorses the recommendations contained in the above textbox, but notes that they have not, for the most part, been thoroughly implemented. For instance:

- So far, despite efforts by a number of international stakeholders (not least the AJJR), the concept for strategic litigation still remains as a mere idea. Unfortunately it will still take some time for the projects to develop and implement such a concept, given the following hindering factors:
 - According to interviewees, the concept has been explained in an overly theoretical or abstract manner, making it difficult for local practitioner to understand it in concrete terms;
 - The Tajik judicial system has not yet reached the point of reform where the concept can be implemented in an effective, efficient and timely manner; institutional as well as legal culture hurdles still need to be overcome.
- Experiences or lessons learned from the RoL projects are not yet utilised for the production of analytical documents for the HR dialogue.

With regard to issues related to the projects implemented by partners, the following recommendations concerning the overall programme are presented by the review:

- Capitalise on work carried out over the past ten years by LACs;
- Remedy the insufficient role of the SCO in ensuring coordination and synergies within the programme;
- Identify relevant issues arising from the activities, analyses and strategies of the programme in a systematic manner, and elevate them, as strategically and politically appropriate, to the policy level;
- Refocus the programme on the priority issues contained in the country strategy, in particular with regard to the question of the relevance of working in the land reform sector;
- In this context, examine the pros and cons of exiting the NetLAC project and ending the partnership with PO Rushdi Dehot (see relevant chapter above for a fuller explanation);
- Re-examine the relevance of supporting UNICEF's project in light of the new country strategy, based on the findings outlined in the relevant chapter above;
- The steps to be taken after the law on domestic violence has been adopted were discussed during the review, and it was agreed that the SCO (at the strategic level) and the programme should take a leading role in this regard. Given the SDC's long-lasting involvement, there could be here real opportunities for influencing systemic change;
- The issue of "strategic litigation" should be taken up with high priority. With the assistance of top-level attorneys, the programme could tackle cases with a ground-breaking and publicity potential (which could be identified from the projects, e.g. domestic violence, human rights violations or land issues) and take them to courts, from the lower to the higher jurisdictions. The (hopefully) successful cases should then be analysed and published in order to raise awareness and create jurisprudence/case law. A special fund for "strategic litigation" could be established at AJJR level, with the potential for co-funding by other like-minded organisations and donor agencies;
- Another strategic opportunity was also identified in the foreseen drafting of the law on legal aid. Here again, SDC's longstanding involvement in the sector was seen as comparative advantage and new partners were identified, for instance the bar association(s);
- The PDV and AJJR projects could pilot new "business models" for lawyers working on a part-time basis, or working as consultants on a mandate basis. These "business models for lawyers" could serve as pilot for the high level discussions with the GoT on the implementation and budget consequences of the law on free legal aid. What is meant by a new "business model" is an innovative institutional arrangement whereby lawyers are able to profitably work in a private practice, while at the same time working on social causes, and that in the context of the new law.
- The budget and competencies of the Judicial Training Centre could be a topic on the agenda of future discussions with the GoT, since well trained and decently paid judges are a cornerstone of the Judicial Reform and of improved access to justice.

Recommendations on the set-up of the future programme:

- The NPO must have internal administrative support to steer the projects in a more efficient way; as the review team learned in the discussion with the new country director, internal

management within the SCO will be streamlined and put more in line with a matrix structure: this will allow the NPO to concentrate more on thematic work, as well as on lobbying and advocacy, rather than on administrative issues;

- After the definition of clear roles for the partners in the programme, the management style of SCO must change from a mentoring and mediation approach to a real programme management steering style, with clear objectives, roles and responsibilities of all involved project partners, and a clear orientation towards advocacy and policy dialogue with the GoT;
- Definition of roles and responsibilities include a consensus on which level the SDC Programme is working with regard to advocacy and policy dialogue (macro level), as well as on which level implementing partner organisations are engaged (micro and meso level, i.e. local authorities and provincial government);
- SCO must find a good mechanism for managing and steering on the one hand, and coordination and information exchange on the other hand. AJJR project, as the “backbone” of the programme, should be allowed and supported to play a more important role in this regard;
- As foreseen in the outcome matrix above, the SDC RoL programme will involve – whenever suitable and opportune – the project partners in discussions with the GoT. This should also extend to other CSOs and human rights activists;
- Although not much thinking beyond theory has been given to this issue, the inclusion of other domains/sectors of SDC/SECO (health, water or PSD) should not be forgotten, and ways to build synergies when discussing “legal issues” should be examined – e.g. in PSD (one-stop shop or changes in the business law) with the relevant ministries. The following questions could usefully be discussed: what is the coordination of PSD and RoL? What is the role of SDC in the dialogue with GoT (IFC is implementing the PSD project and supposedly does not need support by SDC). The country director will have a leading role to ensure that these questions are adequately addressed within the SCO.

Recommendations for a “One Voice Switzerland” approach:

- The strengths of PD IV in discussing important issues within the HR dialogue with the GoT should be fostered and more strategically used by the SDC RoL programme;
- There are several channels for “One Government Approach”: the RoL programme with a more technically profound and consistent dialogue with the GoT, as well as the HR dialogue, at a higher level; discussion on legal issues related to the other sectors like water, health and PSD should not be forgotten. Good coordination and a foresighted strategic planning of the agenda topics and the expected results of both dialogues are extremely important in order to reach a real “One Voice Switzerland”.
- The list of topics for the HR dialogue should be analysed and updated on a regular basis; important topics of the SDC RoL programme, which are influencing systemic change in the Justice System, should be discussed by a yearly internal “One Voice Switzerland” forum, and consistently be taken up in the dialogue – e.g. the law on legal aid or the issue of the competencies of the Judicial Training Centre.
- Switzerland should, as appropriate, put more pressure on the GoT, e.g. on the adoption of budget lines for the work of an independent JTC for free legal aid. Switzerland could, for

instance, consider providing in the first 3 years, maybe together with other donors, 20 % of the budget, and reduce this percentage over the following years, so that the GoT could ultimately cover 100 % of the budget. With regard to PDV, another possibility is that SDC could build a “model shelter” and the GoT would commit to building a number more in other regions, using the same model. In the final analysis, only words and laws will not change the situation – in order to obtain systemic change, there must also be pressure and real (financial) commitment by the counterpart.

In the meeting with the Presidential Adviser on legal issues, the latter expressed his strong determination in having the above mentioned laws adopted without delay. He requested SDC’s assistance in this regard and offered his support in dealing with concerned governmental institutions. A new momentum further to this meeting was therefore been set in motion, and SDC should not miss this (maybe short) window of opportunity to keep the ball rolling.

Annexes

Annex 1: Excerpt of Terms of Reference to Consultants

(version 14.07.2011 – *the blue color marks the changes by SDC of the first version, after handing in the inception report by the consultants on 12.07.2011*)

(...)

2. Purpose and objectives of the external review

The actual Cooperation Strategy (2007 -2011) comes to an end and a new Swiss Cooperation Strategy for Central Asia (2012-2015) is currently under elaboration. The regional part of the new cooperation strategy will further focus on water management and KG and TJ will remain the two priority countries for the Swiss cooperation, with context adapted programs and domains of intervention. RoL/Access to justice will remain a priority in the Tajik program with the health, private sector development and water supply & sanitation sectors. Some important changes in the approach are foreseen in Tajikistan by integrating ways to address fragility in a context of very weak governance. The Swiss cooperation will also contribute to improve the structural stability of the country by promoting partnerships between the Tajik government and the civil society for changes of legislation and reforms implementation; special endeavors will be directed towards reinforcement of the nascent civil society so that it can become a credible interlocutor of the government, be it at national or at local level.

A results framework has been drafted for the RoL/Access to Justice sector and is given in the review documentation. The two-pronged approach with policy dialogue and legal service delivery will be continued under the new strategy. It is particularly important to promote dialogue and to ensure close collaboration of civil society (legal specialists, NGOs, Mass Media) and the authorities on the issues of drafting legislation, situation analysis, reporting, professional qualification, trainings and dissemination of relevant information. The role of the media can be increased in raising awareness of the public on negative and positive examples of protection of individual rights as well as on legal information.

In the framework of the consolidation of SDC RoL program and the elaboration of a new Cooperation Strategy for Central Asia, an assessment of SDC portfolio in the RoL/Access to Justice sector is seen as opportune. At the same time, it was foreseen in the credit proposals to review two projects of the SDC RoL portfolio, the NetLAC and the PDV projects. Instead of having separate reviews, a complex and comprehensive external review will be conducted by a team of 2 international experts and 2 local experts at the project and SDC portfolio levels.

UNICEF will conduct its own intern project assessment of the JJAP beginning of August. When consulted on the ToRs of this self-assessment, SDC showed its interest in the outcomes of the project so far, in the sustainability of the JJA centers and on the synergies of the JJAP with other projects in general and with SDC-funded projects in particular. The review will also complement at a sector level the findings of the UNICEF internal review.

The external review consists of the:

- (i) Assessment of the Swiss RoL program (**part 1**)
- (ii) the consecutive reviews of the individual projects funded by SDC (PDV, NetLAC) (**parts 2 and 3**)

Each specific component/part of the review will have its own review focus either relevant to the program issues or to the activities undertaken in the projects.

The **main objectives** of the first part of the review are:

- To assess the effectiveness of the programme.
- To cross-check the relevance and feasibility/impact logic of SDC planned strategy in the RoL/Access to Justice sector in the new cooperation strategy.
- To provide guidance to adapt and develop SDC support in the RoL sector in Tajikistan so that it makes a relevant and visible contribution to the development of the sector in Tajikistan and it responds to the ambitions set for the sector in terms of results and lines of intervention. [Recommendations are formulated for the possible improvement of SDC RoL program, in particular for strengthening SDC/PDIV synergies, for promoting synergies/complementarities between the SDC funded projects, and for better strategic alliances with other agencies working in the RoL sphere and a more effective policy dialogue.](#)

The **following sub objectives** for the projects' review are envisaged:

- To assess if the NetLAC project set-up may effectively contribute to the building of a legal network whose members are empowered and strengthened in their capacities to provide quality services to the population and to advocate for changes in the legal and judiciary system.
- [To assess effectiveness of the PDV project in achieving the four set objectives to prevent domestic violence In Tajikistan, more precisely: progress as regard to policy and legal framework, effectiveness in addressing the needs of the victims, effectiveness of awareness campaign and effectiveness in strengthening the capacities of the local partners.](#)

Part 1: Key questions for the Rule of Law program review:

- What are the [results/achievements](#) of the SDC programme in the RoL/Access to justice? What changes were brought in the legislation [and overall framework](#) and what are the consequences of these changes for the legal services providers and the citizens?
- What role has SDC/[SCO](#) played in the sector so far [at the policy level but also in facilitating/promoting a programmatic approach within its own program?](#)
- [Does SDC has enough resources to steer and managed the RoL program? To influence policy dialogue and donor coordination? In promoting knowledge sharing among implementing partners? Has SDC the means of its ambitions in the future and for achieving the expected changes?](#)
- [Does the program effectively address the needs of the vulnerable population? Does it effectively promote linkages between field and policy reform? Does it make an effective contribution to the strengthening of the judicial sector, in particular by enhancing the capacities of and by empowering national and local partners?](#)
- [At the light of the results so far, the financial constraints and the number of sub sectors \(domestic violence, land rights, juvenile justice, justice reform,...\) is it necessary or not to be more focused?](#)

- How SDC and partners look at the balance between formal and informal judiciary systems to improve the access to justice?
- Is SDC planned intervention strategy in the RoL/Access to Justice adequate to the current needs in Tajikistan? Will SDC make a difference? Is SDC addressing the critical issues with the right means to reach the set goal? Is SDC intervention strategy feasible taking into account the capacities of the local partners and organizations of the civil society?
- What critical governance and gender cross-cutting issues should be addressed in the sector in the future? What have been the major achievements so far? What have been the major challenges and/or lessons learnt?
- What are the recommendations to increase the SDC programmatic approach, to team-up with other actors in the sector and to increase the sustainability and effectiveness of the program in the next four years?

Part 2: Key questions for the PDV project review:

- What are the main results of the project in the four objectives set for the phase: i) to improve the institutional frameworks of governmental and non-governmental stakeholders in the fight against domestic violence (DV); ii) to improve access to quality services for victims of DV; iii) to demonstrate attitudinal change with respect to DV; iv) to enhance partner's capacity to deal with DV at different levels³.
- What are the major challenges or gaps in addressing domestic violence issues in Tajikistan and how does the project manage these difficulties?
- Is then the project intervention model relevant and efficient? How can project approaches be optimized in order to achieve better results? (Intervention model is given in annex 1 of the Annual Operational Report 05)?
- What can be said on the capacities of the local partners involved in the PDV project, on their level of ownership and participation? Are the approaches/intervention strategies selected by PDV adequate and sufficient to develop the capacities and to empower the local partners in their service delivery function and in their advocacy role?
- Is the way of advocating endorsed by the project addressing sufficiently the critical issues of domestic violence at all the different levels (policy dialogue, capacity building, services, and general awareness)? Is it necessary to revise the advocacy strategy?
- Is PDV PUI able to play an effective role in the policy dialogue? How to strengthen the policy dialogue component of the PDV project? Which role should SDC/PDIV play to support PDV PUI in the policy dialogue? What are the complementarities between SDC, PDIV and the implementing partner to this regard?
- Are the Steering committees effectively used for advocacy and policy dialogue? Strategic effectiveness and relevance of the meeting?
- How does the project look at the sustainability and how does the PUI monitor this dimension? What can be said on the mechanisms of the project to address the sustainability issues? How to progress to further sustainability?

³ The End-of-Phase Appraisal of the PDV project documents the results related to objectives ii) and iii).

Part 3: Key questions for the NetLAC project review:

- What are the progresses related to the 3 objectives/outcomes set in the credit proposal? Is the current project set-up relevant and effective for achieving these 3 objectives?
- Is the local partner Rushdi Dehot (RD), as an important element of the project design, credible and capable of fulfilling its role as manager of the NetLAC Network, as capacity-builder for the Network Members, as a provider of need base services for the Members like common data base and awareness' materials, and as principal agent for dialoguing with the government and lobbying for changes?
- To which extend could the project contribute to strengthen the capacities of RD? What has changed in the partner organization? What skills and capacities has RD acquired? Any change regarding its role and how the team perceive its role? How do you assess the accountability mechanisms towards the members of the network and towards Helvetas?
- How do the Network members perceive their role within the project and beyond? How to foster and reinforce the ownership and participation of the Network Members as central elements of sustainability of the project?
- What can be said on the quality of the relationship between Helvetas and the local project partners in general? Is this partnership approach empowering the local partners and fostering their organizational and institutional development, both in their service delivery function and in their advocacy role?
- Is it necessary to reconsider the organizational set-up of the project? What are the options to establish a more effective and sustainable Network?

(...)

Annex 2: Programme schedule of Review Mission in Tajikistan (13.08. – 03.09.2011)

date	where	what
Saturday 13.08.2011		<i>Travel Zurich/Geneva – Frankfurt – Dushanbe</i>
Sunday 14.08.2011	Dushanbe, hotel Dushanbe, restaurant	Internal discussion and preparation of the mission Informal meeting with NPO
Monday 15.08.2011	SCO Dushanbe	Briefing with SCO Tajikistan + Deepening Self-Assessment
	SCO canteen	Working lunch
	Helvetas office, Dushanbe	Meeting with NetLAC project (Helvetas office) + Deepening Self-Assessment
Tuesday 16.08.2011	PDV office, Dushanbe	Meeting with PDV project (GOPA office) + Deepening Self-Assessment
	Helvetas office, Dushanbe	Meeting with AJJR project (Helvetas office) + overview of the evaluation recommendations.
	SCO office, Dushanbe	Meeting with UN Women
Wednesday 17.08.2011		<i>Trip to Vahdat</i>
	Vahdat	Meeting with NGO “Madadgor” (AJJR project and member of NetLAC)
		<i>Return to Dushanbe</i>
	Dushanbe, NGO office	Meeting with NGO “Leagues of women lawyers” (AJJR project)
	Dushanbe, restaurant	Lunch meeting with UNDP Country Director
	Dushanbe, NGO office	Meeting with NGO “INIS” (AJJR project and member of NetLAC)
	Dushanbe, NGO office	Meeting with NGO “Human Rights Center” (AJJR project)
Thursday 18.08.2011	Dushanbe	Meeting with Crisis Center “Bovari”
	Dushanbe	Meeting with Committee of Women and Family Affairs
	Dushanbe, NGO office	First meeting with NGO “Rushdi Dehot”
	Dushanbe, MoA	Participation in the Donor Coordination Council, Ministry of Agriculture
Friday 19.08.2011		<i>Travel from Dushanbe to Kurgan-tube (South of Tajikistan)</i>
	Kurgan-tube	Meeting with PDV regional representative
	Kurgan-tube	Meeting with Crisis Center “Ghamkori”
	Kurgan-tube	Short lunch break in hotel “Firuza”
	Kurgan-tube	Meeting with NGO “Khamroz”
	Kurgan-tube	Meeting with NGO “Mahbuba”
Saturday 20.08.2011	Kurgan-tube	Meeting with Rushdi Dehot Regional Office in Kurgan-tube (NetLAC project)
	Khatlong region	Meeting with 3 local initiative groups on domestic violence with the participation of local authorities, police officers and religious leaders
	Kurgan-tube	Meeting with 2 other NetLAC members: a) Bonuvoni Fardo + b) Ilhom
		<i>Travel from Kurgan-tube back to Dushanbe</i>
	Dushanbe	Second meeting with Rushdi Dehot
Sunday 21.08.2011		<i>Travel from Dushanbe – Khujand (North of Tajikistan)</i>
Monday 22.08.2011		<i>Trip to Isfara</i>
	Isfara, NGO office	Meeting with NGO “Human Rights Center” in Isfara district
	Isfara, NGO office	Meeting with NGO “Center for protection and cooperation (NetLAC member)
	Khujand, NGO office	Meeting with NGO “Paivandi Shahrivandi” (NetLAC member)
	Khujand, NGO office	Meeting with NGO “Umedbakhsh” (NetLAC member)
	Khujand, restaurant	Working dinner in cafe “Visol” with Ms Mohira Usmanova – Chairman of Sugd oblast Bar Association.
Tuesday 23.08.2011	Khujand, NGO office	Meeting with NGO “Women and society” (NetLAC member)
	Khujand, NGO office	Visit of Rushdi Dekhot Regional Office in Khujand (NetLAC project)
		<i>Travel from Khujand to Dushanbe</i>

date	where	what
Wednesday 24.08.2011	Dushanbe, NGO office	Meeting with ABA/ROLI
	Dushanbe, SCO office	Meeting with PD IV - HR adviser
	Dushanbe, British Embassy	Meeting with DFID in the British Embassy: economic advisor and governance advisor
	Dushanbe, Hyatt Hotel	Lunch meeting with US Embassy advisor on law enforcement
	Dushanbe, OSI office	Meeting with Open Society Institute – Rule of Law program
	Dushanbe, restaurant	Working dinner with UNICEF JJAP project + discussion about internal evaluation organised by UNICEF
Thursday 25.08.2011	Dushanbe, office of Council of Justice	Meeting with the Council of Justice of Tajikistan
	Dushanbe, office of Council of Justice	Meeting with Judicial Training Centre under the Council of Justice of Tajikistan
	Dushanbe, office of GIZ	Meeting with GIZ – legal project
	Dushanbe, SCO office	Meeting with NPO Shakar
	Dushanbe, Mercury	Informal meeting with country director Peter Mikula
Friday 26.08.2011	Dushanbe, SCO office	Meeting with NPO Shakar
	Dushanbe, USAID office	Meeting with Chemonics (USAID Land project)
	Dushanbe, restaurant	Working lunch and meeting with Mr Sergiev, independent lawyer and HR activist
	Dushanbe, ICNL office	Meeting with NGO “Society and Law”/ICNL - Muatar Khaidarova
	Dushanbe, NGO office	Meeting with NGO “Notabene” (Human Rights activists)
Saturday 27.08.2011	Mercury Hotel	Meeting with NPO Shakar
	Dushanbe, Hyatt hotel	Lunch meeting with Dorine van der Keur, NetLAC project
	Dushanbe	Third meeting with Rushdi Dehot
Sunday 28.08.2011		Internal reflection Preparation of reflection to PDV project and reflection to NetLAC project
Monday 29.08.2011	Dushanbe	Feedback to PDV project evaluation – meeting session with PDV staff and SCO
Tuesday 30.08.2011	Dushanbe	Meeting with State Advisor to the President on legal policy
	Dushanbe	Feedback to NetLAC project evaluation – meeting session with Helvetas (NetLAC staff), PO RD and SCO (as an observer)
Wednesday 31.08.2011	Local Ramadan holiday: Eid al Fitr	Internal reflection Preparation of consolidation workshop
Thursday 01.09.2011	Dushanbe	Consolidation workshop with SCO key staff + NetLAC, PDV, AJJR and JJAP project as well as partner organisations working together with the Implementing Partner (ca. 30 participants)
Friday 02.09.2011	SCO office, Dushanbe	De-briefing session with SCO Tajikistan
	SCO office	Meeting with Police Academy
	SCO office, Dushanbe	Finalization of the main findings + preliminary recommendations/conclusions (short summary report)
Saturday 03.09.2011		<i>Travel Dushanbe – Frankfurt – Zurich/Geneva</i>

Only after the mission, on Friday 16.09.2011 a telephone interview was undertaken with Ms Nathalie Chuard from PD IV.

Annex 3: Action Plan for Implementation of the Judicial and Legal Reforms in Tajikistan for 2011-2013

Approved by Presidential Decree on January 3, 2011 – № 976

	Name of activities	Time-frame	Action by	Planned activities of donors & IOs
1.	In order to improve the administrative procedure law and create an environment to simplify and expedite the processing of administrative cases, provide a judicial investigation and adopt by the courts legitimate and well-founded decisions, <i>develop and submit a draft of the Procedural Code of Republic Tajikistan on Administrative Offences</i>	2011	Working group established by Presidential Decree of 26 August 2010 # RP-1385	
2.	Analysis of the legislation of the Republic of Tajikistan and introduction of any relevant amendments and additions to improve the performance of the justice system including: -to ensure fair and equal access to justice for all and improving efficiency lawsuit of the courts; - development of procedures for pre-and extra-judicial settlement of disputes, primarily between citizens and public authorities; - definition of a clear mechanism for distribution of cases between judges; - development and application of mechanisms of providing annual information on the activities of each judge and improvement the accountability of judges in court decisions; - improvement of the mechanism of training and competency assessment of judges	2011	Council of the Justice Supreme Court High Economical Court Ministry of the Justice General Prosecutor Office National Center for Legislation	Helvetas (SDC)
3.	Amendments and additions to the procedural laws of the Republic of Tajikistan associated with the timing and order of consideration of cases, as well as other issues that arise during the implementation of this Program.	2011	Council of the Justice Supreme Court High Economical Court Ministry of the Justice General Prosecutor Office National Center for Legislation	Helvetas (SDC)
4.	Preparation and adoption of appropriate legal act about the order of staff recruitment of defined courts and resolution the issues of workload of judges	2011	Council of the Justice Supreme Court High Economical Court	
5.	Development and submission of draft of appropriate legislation in order to improve court execution order and eliminate the contradictions in this issue,	2011	Ministry of the Justice Council of the Justice Supreme Court High Economical Court General Prosecutor Office	
6.	Review and improvement of regulation on the activities of the Council of Justice	2011	Council of the Justice Ministry of the Justice	Helvetas (SDC)
7.	Creation of web-sites on the Internet of the judicial agencies in order to ensure transparency of their activities	2011-2013	Constitutional Court Supreme Court High Economical Court	
8.	Improvement of the organizational activities of the courts with the purpose of proceedings in administrative and family cases	2011-2013	Supreme Court High Economical Court Council of the Justice Ministry of the Justice General Prosecutor Office	
9.	In order to improve the functioning of the Constitutional Court of Tajikistan to prepare and submit a draft of the Constitutional Law of the	2011-2013	Constitutional Court Supreme Court High Economical Court	

	Republic of Tajikistan on the Constitutional Court of the Republic of Tajikistan (in new edition)		Council of the Justice Ministry of the Justice	
10.	In order to improve the functioning of the courts, fully ensure the human rights and freedoms, clear definition of duties of subordinate judiciary, develop and submit a draft of the Constitutional Law about courts of the Republic of Tajikistan (in new edition) and draft other normative regulations	2011-2013	Constitutional Court Supreme Court High Economical Court Council of the Justice Ministry of the Justice	
11.	In order to improve the criminal justice system and ensure its conformity with international legal acts recognized by Tajikistan develop and submit Criminal Code (in new edition)	2011-2013	Ministry of the Justice General Prosecution Office Ministry of the Interior Supreme Court High Economical Court Council of the Justice Agency for State Financial Control and Combating Corruption	
12.	Provide Annual increase of salary for judges and employees of the courts, as well as equating the social status of court employees to the social provisions of other state authorities	2011-2013	Ministry of the Finance Ministry of the Justice Constitutional Court Supreme Court High Economical Court Council of the Justice	
13.	Review issues of improvement of judges' qualification requirements (including the age of appointment or election as a judge and their working experience), appointment without term or election of the judge, who have worked over 10 years and positively recommended himself, on the immunity of judges and provision commentary to the Constitution from Constitutional Court of the Republic of Tajikistan and provision of legal opinion on the improvement of legislation and establishment of a regional court.	2011-2013	Constitutional Court Supreme Court High Economical Court Council of the Justice Ministry of the Justice	Helvetas (SDC)
14.	For improvement of the delivering of highly professional legal aid, prepare and submit legal act on providing legal aid	2011-2013	Ministry of the Justice General Prosecution Office Supreme Court High Economical Court Council of the Justice Presidium of Bar Association	Helvetas (SDC)
15.	Investigation of the issue of merging in one qualification body several qualification bodies of judiciary agencies	2011-2013	Supreme Court High Economical Court Council of the Justice Ministry of the Justice	
16.	Preparation and submission Code of the Ethics of judges in the new edition	2012-2013	Council of the Justice Constitutional Court Supreme Court High Economical Court Ministry of the Justice Association of the Judges	

Annex 4: Used literature

(selected documents out of the enormous amount of documents given by SDC HO, SCO, AJJR, NetLAC, PDV, JJAP, Rushdi Dehot and the visited direct and indirect partner organisations met during the mission)

- Swiss Cooperation Strategy for Central Asia 2007-2011
- RoL program concept (2008)
- Vulnerability study (2010)
- Central Asia and Tajikistan context analysis (2010)
- Sector analysis for the SDC RoL/Access to Justice sector, 2011
- Results framework for the RoL/Access to Justice sector (draft)
- Concept Note on the program in Tajikistan for the new cooperation strategy (draft)
- Overview on RoL projects in Tajikistan
- Relevant project documents of all projects such as NetLAC, PDV, AJJR and JJAP (Credit proposals, project documents, and operational reports) for the current and previous phases 2008 - 2011
- External review report on AJJR, 2010
- SDC management response to AJJR evaluation dated 26.08.2010
- Helvetas response to the SDC management response to AJJR evaluation dated October 2010
- Evaluation follow up: document written by Helvetas AJJR project 2011
- Gap analysis written by Helvetas AJJR project 2011
- AJJR: India Study Tour Report (by Helvetas)
- AJJR: India Study Tour Report (by SCO)
- Report of a representative of the Centre for Social Justice, India, after visiting the RoL projects in Tajikistan, 2010
- Access to justice study of Eurasia Foundation
- Draft PDV end-of-phase appraisal (June 2011)
- PDV Annual report 01.12.2009 - 30.11.2010
- NetLAC Work plan 2011
- Operational Report NetLAC 2009-2010
- Steering Committee Meeting, draft minutes of the meeting of 3 December 2010
- Steering Committee Meeting, draft minutes of the meeting of 14 December 2009
- Steering Committee Meeting, minutes of the meeting of 23 September 2009
- NetLAC survey to "Assess Legal Issues of Farmers in Tajikistan and knowledge of their rights" of May 2011
- Draft strategy of the Rushdi Dehot Network of April 2011
- Capacity building needs assessment with the 10 members of the Rushdi Dehot Network of March 2011
- Development Fund, overview of grants, 2011
- Development Fund, draft minutes of the meeting of 26 May 2011
- Development Fund, minutes of the meeting of 24 February 2011
- Development Fund, draft minutes of the meeting of 14 December 2010
- Audit report of main implementing partner NGO Rushdi Dehot (in Russian only, Audit Report and Management Letter)

- Different internal documents given by PO Rushdi Dehot about their strategy 2010, correspondence with Helvetas, correspondence with Chemonics
- Tender documents for the NetLAC tender written by SDC (with the annexes of different fact finding mission results incl. concept paper), 2008
- Offer for the NetLAC tender written by Helvetas, 2008
- ToRs of the JJAP self-assessment, 2011
- Juvenile Justice in Tajikistan – Factsheet, 2011
- UNICEF CEE-CIS Regional Office, Compilation of Promising and Good Practices in Juvenile Justice, 2011
- Update on Juvenile Justice System Reform in Tajikistan
- Juvenile Justice Alternatives Project: Tajikistan experience
- Several documents issued by the Donor Coordination Council in Tajikistan, working group on Agriculture