



**RDI Reports on Foreign Aid and Development #102**

**Legal Aid Centers in Rural Russia:  
Helping People Improve Their Lives**

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## I. INTRODUCTION

In Russia, privatization of agricultural land and restructuring of the unproductive collective farm system were key components of the economic transition throughout the 1990's. During that time, the Russian government adopted legal rules enabling citizens to own land, to create private farms, and to decide how they wished to farm (collective, corporate, or private). Unfortunately, the hoped-for goals of significant breakup of the collective farms, and concomitant formation of large numbers of private farms, generally did not occur.

The Rural Development Institute (RDI) conducted extensive field research in rural Russia during the 1990's, and directly observed the slow realization of these agricultural reform goals. While it was clear that severe economic difficulties played a major role in the slow pace, it was also clear that the rural population's lack of knowledge about their rights to land and other assets needed for farming, opposition to the exercise of these rights by collective farm bosses and many government officials, and the lack of a tradition of asserting these rights played a significant role as well.

Thus, in order to help the rural population realize their legal rights to land and other assets, as well as their right to farm as they chose, RDI founded the "Center for Land Reform Support of Vladimir *Oblast*" (province) in August 1996. In February 1998 RDI established a second such Center in Samara *Oblast*. The Centers provide legal advice free of charge to rural citizens in the exercise of their legal rights to land, and help resolve legal issues related to the operation of private farms. The Centers have played an important and unique role in the development of Russia's rural economy, and in the practical application of the rule of law, not only in the two provinces in which they are located, but also with impact nationally.

This report discusses the organization, objectives, and activities of Vladimir and Samara Centers for Land Reform Support in the following eight sections. Section II provides a brief sketch of agricultural land reform and farm restructuring in Samara and Vladimir. Section III presents the broad objectives that the Centers try to achieve. Section IV described the structure and organization of the Centers. Section V briefly describes the day-to-day activities that the Centers undertake in pursuit of their goals, as well as the broad impacts. Section VI describes two ways in which the Centers have had national impact. Section VII provides a list and description of the major legal issues that the rural population has brought to the Centers for assistance. Section VIII presents a detailed description of six actual cases brought to the Centers by rural clients, and how these cases were resolved. Finally, Section IX contains a brief conclusion.

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## II. A BRIEF OVERVIEW OF AGRICULTURAL LAND REFORM AND FARM RESTRUCTURING IN SAMARA AND VLADIMIR OBLASTS

Samara *Oblast* is located on the Volga River 1000 kilometers southeast of Moscow. The *oblast* has a population of 3.3 million people, approximately 2 million of whom live in the *oblast's* major cities of Samara and Tolyatti. Samara has 3.9 million hectares of agricultural land, of which 3.1 million hectares are plowed land and 800,000 hectares are pasture land. Much of Samara is rolling steppe, with large fields of wheat, rye, sunflower, and feed corn. Some areas close to the Volga are irrigated, but the majority of land, especially to the south of the city of Samara, is highly vulnerable to drought and other vagaries of weather.

At the time of the Soviet Union, agriculture in Samara *Oblast* was carried out through a system of 450 collective and state farms, which averaged over 10,000 hectares in size.<sup>1</sup> These farms generally were not very efficient, and their productivity was low. No private farms existed. Under the agricultural reforms carried out across Russia in the 1990's, collective and state farms were to restructure into new corporate farms that would hopefully be more productive and efficient. As of late 1999, Samara's collective and state farms had been restructured into 337 cooperatives, joint-stock companies, partnerships, and other types of legal entities, with 165 farms remaining in state ownership. Unfortunately, these "restructured" enterprises are generally operated like collective farms in everything but name, a fact that has been confirmed to us directly by many of the directors of such enterprises, both in Samara and elsewhere in Russia. Productivity and efficiency remain low. In addition, most of these large Samara farms are insolvent.

The 1990's Russian land reform also allowed people to start and operate private farms, which world experience has shown to be the most productive and efficient method of farming.<sup>2</sup> Samara *Oblast* had 3,455 private farms operating as of late 1999. These farms cultivate 210,000 hectares, averaging 61 hectares each. Unfortunately, the number and area of private farms has declined from a 1993 high of 6,055, cultivating 261,847 hectares. This decline was due to several factors, including marketing difficulties, poor harvests, and unavailability of credits to buy inputs and machines. An additional factor (which has been more systematically documented in Vladimir *Oblast*) is that many of these farms did not "fail," but simply switched legal classifications to become "private entrepreneurs" under Russian law rather than remaining legal entities, a switch that relieves farmers from having to comply with confusing and burdensome government regulations. Overall, this decline bottomed out in 1996. Since that time the number of private farms has declined only slightly, while the total hectarage they cultivate has increased.

Apart from the farm restructuring, the 1990's Russian land reform gave ownership of agricultural "land shares" to about 236,000 citizens of Samara *Oblast*. Over 90 percent of these citizens have received title certificates to these shares. These shares are owned in

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<sup>1</sup> By comparison, the average farm size in the United States is about 200 hectares.

<sup>2</sup> See Tim Hanstad, "Are Smaller Farms Appropriate for Former Soviet Republics?," RDI Reports on Foreign Aid and Development #97 (February 1998), and sources cited therein.

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common and represent the majority of the agricultural land in the *oblast*. Importantly, land share owners can freely lease or sell their shares to the user who will pay the highest price; they can also receive land in kind in exchange for the land shares for use on private farms. Land reform in Samara has also benefited from a generally supportive *oblast* government that, among other things, adopted a law on land that supports private ownership of land, including the right to freely conduct transactions.

Vladimir *Oblast* has a population of 1.6 million, and adjoins Moscow *Oblast* to the east. The *oblast's* major city, Vladimir, is located 190 kilometers east of Moscow. Vladimir has 876,000 hectares of agricultural land, of which 590,000 hectares are plowed land, 270,000 hectares are pasture land, and 13,000 hectares are orchards.

Vladimir *Oblast* had 221 collective and state farms during Soviet times, which averaged more than 5,000 hectares in size. These farms have been restructured into 223 production cooperatives, joint-stock companies, and other corporate legal forms, with 15 additional enterprises remaining unstructured. As in Samara, these “restructured” enterprises are generally operated like collective farms in everything but name, with many of them being insolvent.

Regarding private farms, Vladimir *Oblast* had 2,147 such farms in operation in 1999. These farms cultivate 30,366 hectares, and average 14 hectares each. These numbers are down from a peak number of 2,424 farms cultivating 36,660 hectares in 1996. The number of private farms declined in Vladimir for largely the same reasons as in Samara. Also, as in Samara, the decline seems to have bottomed out. Moreover, although the average size of a farm in Vladimir *Oblast* is somewhat smaller than in Samara (a primarily grain-growing region), Vladimir is further north, generally has poorer soil, and a higher proportion of the farmers grow potatoes, other vegetables, and raise dairy cattle. Such pursuits are not nearly as land-intensive as growing grain, which is conducive to larger fields and greater levels of mechanization.

Regarding land shares, 102,695 citizens of Vladimir *Oblast* were entitled to receive land shares in ownership under the 1990's land reform. Almost 93,000 of these citizens have actually received their title certificates to their land shares.

Finally, it is important to remember an additional significant source of agricultural production in both Vladimir and Samara *Oblasts*: production from gardens, *dachas*, and other small plots. Nationwide, although these small plots only occupy about five percent of agricultural land, they produce upwards of 40 percent of the total value of agricultural production in Russia.

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### III. OBJECTIVES OF THE LEGAL AID CENTERS

The legal aid centers have two major objectives. First, they help private farmers and people who are considering starting private farms resolve legal issues and problems related to starting and successfully operating their businesses. These issues and problems include legal rights to land, machinery and other assets, corporate law, and taxation. Second, the Centers assist rural citizens who are not private farmers nor are interested in becoming private farmers, but who have rights to land and other assets, to utilize these rights to increase their household incomes.

Several factors contributed to identifying the Centers' two major objectives as important goals to be achieved. First, the 1990's rural reforms in Russia were significant in that they transferred legal control over most agricultural land and most equipment and machinery to the rural workers and pensioners. Unfortunately, the economic benefits that these new legal rights could bring to individuals largely have not occurred for a variety of reasons. They include a lack of knowledge about legal rights, a rural culture that discouraged individual initiative throughout Soviet times, and opposition by collective farm bosses and many local officials to individuals exercising their new rights as the law provides.

Second, the development of private farming in Russia is the only real solution to the tremendous problems of low productivity and inefficiency plaguing Russian agriculture. These problems were created by the collective farm system, one of the least productive agricultural systems ever devised, and cannot be solved by the cosmetic restructuring of collective farms which has been a major component of the agricultural "reform" in Russia.<sup>3</sup> Providing legal help to private farmers and to those wishing to become private farmers is one way to assist in this development.

Third, Russia's rural economic problems will have to be solved by the rural people themselves. There will be no magic infusion of outside resources to save the day. However, significant assets such as land, farm machinery, and buildings already exist in the countryside, and the rural people have legal rights to these assets as described above. What is needed is help for rural people in accessing these assets, either for their direct use or for transfer to those (such as heirs or private buyers) who will make efficient use of them. Sustainable improvement of the rural economy rests upon the long-term ability of Russian farmers and rural entrepreneurs to create capital by developing productive and profitable farms and businesses. For this to happen, rural citizens must themselves participate in Russia's economic development, and therefore must be empowered to exercise and protect their economic rights through use of the legal system.

Fourth, the foreign-supported programs falling under the banner of "land reform" or "farm restructuring" that have been tried in rural Russia all focused primarily on restructuring of large enterprises in their entirety. None of them focused primarily on maximizing the rights

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<sup>3</sup> For a more extensive discussion of this issue, see Tim Hanstad, "Are Smaller Farms Appropriate for Former Soviet Republics?," RDI Reports on Foreign Aid and Development #97 (February 1998); Roy L. Prosterman, Leonard Rolfes Jr., and Jennifer Duncan, "A Vision for Agricultural Land Reform in Russia," RDI Reports on Foreign Aid and Development #100 (November 1999).

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of individuals to land and other assets. This failure to focus on the individuals is crucial, for it neglected each enterprise member's ongoing legal right to leave the collective farm with land and other assets, regardless of whether the farm was officially undergoing a restructuring.

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#### IV. STRUCTURE AND ORGANIZATION OF THE LEGAL AID CENTERS

The Samara and Vladimir legal aid centers are both non-commercial organizations established and operating according to Russian law. The Rural Development Institute (RDI) founded the Vladimir Center in August 1996 and the Samara Center in February 1998. The Centers' offices are located in the cities of Samara and Vladimir, each the principal city in the province of the same name.

Funding for the Centers has been provided by the United States Agency for International Development, the J.M. Kaplan Fund, the National Endowment for Democracy, and the Bill and Melinda Gates Foundation. The legal advice of the Centers is provided free of charge.

The Samara Center is staffed by two Russian lawyers and an accountant. The lawyers are Svetlana Karsuntseva and Alla Ivanova. Ms. Karsuntseva also holds the title of Director of the Center. The Vladimir Center has three Russian lawyers and an accountant. The lawyers are Aleksei Pulin, Marina Turina, and Igor Vasilev. Mr. Pulin is the Director of the Vladimir Center. Each of the lawyers had significant legal experience prior to coming to work at the Centers. While this experience generally did not include legal issues related to land or agriculture, it was judged more important to have talented and motivated lawyers without such experience rather than less talented or less motivated lawyers with such experience.

The Centers' lawyers carry out their work both in the office and in rural villages. The office work consists of public information activities, research and writing on specific cases, and working with clients. The village work consists of meetings with rural citizens, and work with specific clients on their legal problems (including representation at important meetings, negotiations, and in court). The Centers each have access to a car and driver for transportation to the rural villages.

An important aspect of the Centers' organizational status is that they are completely independent of any local, regional or national government authority. No government agency has authority to hire employees for the Center, to dictate the Center's areas of focus and, importantly, no such agency provides any financial support to the Centers. Thus, the Centers are able to focus on protecting and advancing their clients' interests, even when those interests are at odds with the expressed interests of certain government bodies.

Despite this independence, when each Center was founded a "Memorandum of Understanding" was signed between RDI and the *oblast* governments in Samara and Vladimir. The purpose of this step was to openly inform the *oblast* governments of the proposed Center and to gain general agreement on the concept of having such a legal aid center, so as not to face problems later on. These memoranda were important in the Russian context because the Centers were being founded by RDI, which is a non-Russian legal entity, and were to work on a subject area with major political, social and economic implications: rural land reform.

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## V. DAILY ACTIVITIES OF THE LEGAL AID CENTERS

The objectives of the legal aid centers are carried out on a daily basis through three major activities. They are: public information activities; rendering legal assistance to rural citizens; and advising government officials at the local and provincial levels.

### Public Information Activities

The Centers engage in an ongoing effort to inform rural citizens about their rights regarding farmland and farming assets such as machinery, about other important legal rights, and about the existence of the Centers as a source of help. Through this work the Centers encourage citizens to think about their rights, to act on their rights in order to improve their economic situations, and to seek assistance from the Centers.

The Centers conduct this public information effort through various methods. They include:

- Periodically publishing articles on important topics in local rural newspapers. The topics have included "Recommendations on Determination of the Location of Land Plots Allocated in Exchange for Land Shares," "Summary of the Main Legal Problems Related to Activities of Private Farms," "Foreign Experience in Growing Potatoes in Russia," and "Social Sphere Workers and Land Reform." The Centers have published over 70 articles to date. After publication, the Centers generally receive numerous inquiries for assistance from the rural population.
- Posting informational notices at local meeting halls, transportation points, and on public buses. These notices describe important legal rights and invite inquiries by the population to the Centers.
- Periodically conducting meetings in villages, at which the Centers' lawyers present information on the rights of village residents, answer questions, and are also approached by new clients. The Centers have conducted about 60 of these seminars.
- Preparing and distributing written materials. These materials are distributed to the population at village meetings, through cooperative local officials, and at meetings with individual clients. Often clients are given extra copies of materials for distribution among their neighbors. The Vladimir Center's recent handbook, "Certain Issues on the Realization by Rural Citizens of Land and Related Rights," has achieved not only regional but national distribution. It is described in Section VI below.

### Rendering Legal Assistance

The Centers' dominant activity is helping individual clients resolve legal questions. Clients come to the Centers with general questions, such as what can they do with their land shares being used by the collective farm, or with specific issues they need resolved, such as a collective farm's refusal to allocate a lawful property share, or with certain goals in mind such

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as wishing to start or enlarge a private farm, and how can the Center help them achieve those goals through exercise of rights afforded under the law. To date the Centers have handled over 500 cases, won a dozen court cases, and settled scores of disputes. Since several clients are generally seeking help in an individual "case," the number of people actually helped is well into the thousands.

### Assistance to Government Officials

In addition to assisting individual clients, the Centers often provide assistance to regional and local government officials. This assistance consists of responding to requests for interpretation of legislation and working with officials to help them apply legislation with proper consideration for the rights of individual citizens. As these requests for assistance reflect, many such officials are not ideologically opposed to private land rights (or even if personally unsympathetic wish to obey the law), but are simply uninformed as to what specific rights the law provides to rural citizens.

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## VI. NATIONAL IMPACT OF THE CENTERS

Both in the area of public information and in that of identifying important issues for government officials, the Centers have had impact not only at the local and provincial levels, but at the national level.

Regarding public information, in 1999 the Vladimir Center prepared a handbook entitled "Certain Issues on the Realization by Rural Citizens of Land and Related Rights." Five thousand copies were published in conjunction with the State Committee of the Russian Federation on Land Policy (a federal agency), through the World Bank's Land Reform Implementation Support (LARIS) project. Copies were distributed nationwide to each provincial branch of the Land Policy Committee. The Vladimir Center itself received several thousand copies in September 1999. Well over half of these copies have been distributed directly to the rural population, and about 10 percent have been distributed to the regional agriculture department, land committee, and land registration agency, plus local governments.

The Centers have also played a valuable role in identifying important legal and policy issues that require attention from regional and federal policymakers. For example, recent reform of the land registration system in Russia has shifted the responsibility for registering rural land from the State Committee for Land Policy to the Ministry of Justice. Due to poor policy choices coupled with practical transitional problems, the Ministry of Justice currently is not registering rights to agricultural land shares. This makes registration incomplete, endangers private rights, and could lead to the stalling of the land reform process.

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## VII. LEGAL ISSUES ADDRESSED BY THE CENTERS

### Land share issues

One of the most important results of Russia's land reform in the 1990's was the creation of the land share system. Under this system, workers on collective farms, social-sphere workers (such as teachers and health workers) in the villages on the collective farms, and pensioners were each given ownership to a portion of the land cultivated by their collective farm. This land was not physically identified, but was given in common to the beneficiary groups. However, the share can be leased, sold, passed by inheritance, and turned in for a land plot in kind with which to farm. The Centers have helped many clients with problems related to the exercise of these land share rights, especially with trying to lease land shares to the lessee, such as the local private farmer, who will pay the highest rent.

### Property share issues

Along with land share rights, under the 1990's reforms each collective farm worker and pensioner received ownership rights to a common share of the collective farm's machinery, equipment, machinery, buildings, and other assets. Each person's share can be claimed individually under the law, thus requiring the collective farm to transfer assets to the claimant.

As a practical matter, realization of these non-land asset share rights has been extremely difficult, largely due to the opposition of the collective farm managers. Since these rights represent the only assets immediately available with which to farm (and credit to purchase similar assets is virtually non-existent), legal aid center lawyers have helped many clients in their attempt to access these assets.

### Taxation issues

As a general matter, Russian tax law is complicated and often virtually confiscatory. Many clients, especially private farmers, have received assistance from the Centers on a variety of issues related to tax obligations.

### Purchase and sale of land

The Centers have helped clients carry out purchase-sale transactions of full-size agricultural land parcels. Although the number of such cases is few, the development of the precedent and the model is important.

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## Legal issues regarding private farms

Clients have sought the Centers' help on a variety of legal issues related to the formation and liquidation of private farms, as well as to general legal rules to which private farms must adhere.

## Shareholder rights during collective farm reorganization

The shareholders on Russian collective farms are not outside investors, but are the farmworkers, pensioners, and social sphere workers. The reorganization of a collective farm provides the shareholders with an opportunity to strengthen their rights and hopefully increase their household incomes. However, collective farm managers, who are accustomed to completely controlling the farm, often violate or ignore shareholders' concerns and legal rights in an attempt to maintain control. The Centers have helped many groups of shareholders in their dealings with farm management during reorganization of the farm.

## Land privatization and registration

Clients have received assistance from the Centers in having land parcels which they were entitled to own transferred formally into their ownership. Help on related land registration issues has been provided as well.

## Inheritance of land

Several clients have come to the Centers with issues regarding their ability to transfer or receive land, and especially land shares, through inheritance. These issues arise in particular when the potential beneficiaries no longer live in the countryside, but in the cities. Inheritance issues are highly significant to land reform in Russia, since roughly 40 percent of agricultural land is privately owned by retirees who, as they die, will pass their land to their children. Many of these children will want to privately farm the land, or lease or sell the land at the highest price possible.

## Other issues

The Centers have aided clients on a variety of other issues. These include commercial disputes, conflicts with the local administration, and issues surrounding land use rules.

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## VIII. CLIENT CASE STUDIES

This section discusses the experiences of six clients who have been served by the legal aid Centers. The cases are described concretely and in detail, to give readers a real sense of what the Centers' work in rendering legal assistance to individual clients consists of. The client cases presented here were chosen to illustrate some of the most important of the many problems and issues Russia's rural population faces.

### The Blinov Family (Vladimir Oblast)

Mr. and Mrs. Blinov live with their three children in a dilapidated house on the territory of the former state farm Torchino. Both are unemployed, and when the farm reorganized into a joint-stock company (identified by its Russian initials AO), both received land shares of 5.56 hectares apiece. The AO directors, however, did not conclude land share leases with any shareholder who was not also an employee of the farm. The Blinov's income is limited to what they manage to sell from the production of their 0.70-hectare household land plot. The family subsists on potatoes and other vegetables grown on their plot and on milk from their two goats.

The Blinovs wanted to receive rental pay from AO Torchino for use of their land shares, and wrote a letter to the local administration complaining that the enterprise had not entered into a lease contract with them, although they had with others. They did this at the urging of a group of their neighbors, although these other families were unwilling to write letters themselves. They first wanted to see what would happen to the Blinovs. The Blinovs received a written response from the farm administration informing them that the enterprise was under no legal obligation to conclude land share lease contracts with all of their land share owners. Shortly after sending this letter, the Blinovs were informed that AO Torchino would no longer plow and plant their household plot for free, ending the only benefit provided to them by the enterprise.

At around this time the Blinovs were told by acquaintances about the existence of the Vladimir legal-aid Center, and they came in for a consultation in November, 1997. Center lawyers informed the Blinovs about Presidential Decree No. 337<sup>4</sup>, which gives land share owners the right to conclude leases with enterprises that use their shares. They were also informed that before any legal action could be taken on their behalf, they needed to formally approach the administration of the farm and request, in writing, that a lease contract be concluded. Preferably, the Blinovs' application would be presented in the presence of as many of their neighbors as possible, to increase their bargaining power with AO Torchino and to provide witnesses to testify that the petition was actually heard. The Blinovs were unable to entice their neighbors to come along, and approached the farm director on their own. The farm director told them that regardless of what Decree No. 337 said, no rental

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<sup>4</sup> Decree of the President of the Russian Federation No. 337 "On Realization of Citizens' Constitutional Rights to Land" (March 1996).

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contracts would be signed because the Blinovs' land shares lay in a field that was not presently under cultivation. Discouraged, the Blinovs simply dropped off their written application without receiving any documents in return indicating that the request had been received and denied.

In April, 1998 a Center lawyer in the area after meeting with another client stopped by the Blinovs' house to find out what had happened. The Center helped the Blinovs to draft another application and urged them to send it registered mail. Only after having made an application in writing and sent it either registered mail (confirming receipt) or in the presence of witnesses would there be sufficient evidentiary basis to file a petition with a court for improper use of the land share. The Blinovs followed this advice, this time also requesting that their non-land property shares be withdrawn from the enterprise. They received a written response from the director. The director informed the Blinovs that the farm had no record of the Blinovs property shares in the enterprise.

In May 1998 the Blinovs paid a third visit to the Center. Center lawyers helped them to apply to the administration of the Suzdal *Raion* (local district), which had documents describing the reorganization of the farm from a state farm to an AO in 1992. The Blinovs received a written response in September indicating that AO Torchino was currently being reorganized into an agricultural production cooperative, and the value of their property shares were currently being reassessed. The Blinovs were assured that once this reorganization was complete, both the property share and the land share issues would be settled. As of February 1999, two years after the Blinovs initially sent a letter to the *raion* administration, this data had not yet been calculated. The Center lawyers feared that the Blinovs had again given up, as they had a year earlier. The Blinovs have no phone, and the Center sent them a letter of inquiry, but received no reply.

The Blinovs' tale is illustrative of the tortuous series of dead ends and refusals that rural citizens confront when asserting their rights to land and property shares. The frustration of the Blinovs is unfortunately very typical. Very often clients who come to the Center indicate that many of their neighbors are in the same or similar circumstances, but these people are unwilling to take any steps to assert their rights until they see whether or not the client is successful. In addition, without a thorough knowledge of the law, shareholders are in an extremely weak position with farm management, which holds the quadruple advantages of knowledge, power, wealth, and connections over the people that live and work on their territory.

The Blinovs themselves represent an interesting, and common, combination of desire to improve their situation with aversion to risk taking. Although they were willing, unlike their neighbors, to file an application to lease their land share, withdrawing the land in kind and farming it themselves was never an option. Furthermore, if the Center lawyers had not personally followed up with the Blinovs, the entire process would have ended much earlier when the Blinovs gave up after being rebuffed by the farm's director. Unfortunately, it is impossible for the Center to follow up in person with every client. Lack of telephones and long travel times often make regular communication possible only by mail, which puts the

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onus on the client for continued representation. The clients must themselves simultaneously be both energized to take risks and patiently determined to maneuver through the many steps it takes to first negotiate with large enterprises and then, if necessary, to go to court in defense of one's rights.

Many of the Vladimir Center's clients have similar problems and goals to the Blinovs and their neighbors, and their lack of activism to try to improve their own economic situation through private farming or other entrepreneurial activity is a major reason why Russian land reform has not brought the results once envisioned for it. The Vladimir Center can only represent the legal interests of their clients and aid them in their endeavors – it cannot force its clients to take economic risks.

### Mr. Daryin (Vladimir Oblast)

Mikhail Mikhailovich Daryin, one of the earliest clients of the Vladimir Center, presents a stark contrast to the Blinovs and represents one of the Center's most important successes. In early 1996, Mr. Daryin inherited land and property shares from his father, who had been a member of the closed joint stock company (AOZT) Vorshanskoye in Sobino *Raion*. When the general meeting of the AOZT voted not to accept him as a member of the farm, Daryin demanded his land share and property share be allocated in kind.

When the AOZT refused to give him either his land share or property share, he filed a claim with the Sobino district court. The court did not rule on the land share issue, but did award him about \$100 (540,000 rubles as then denominated) that it had calculated as the value of Daryin's property share. Daryin appealed the court's decision on the grounds that the court had based its calculations on the mistaken assumption that the AOZT had reorganized (and property shares were distributed) in 1994, rather than in 1992. The difference in these two years made a tremendous difference in the value of his property share, due to the inflation that occurred in Russia between 1994 and 1992, when the farm was in fact reorganized.

Before his court appearance for the appeal, Daryin learned that the Vladimir Center had opened, and he went to the Center for a consultation. The Center helped him to track down documents necessary to prove that property shares at the AOZT were in fact calculated in 1992. These documents were eventually obtained from the Sobino *Raion* administration because the AOZT Vorshanskoye refused to give Daryin access to its own documents. With the representation of Center lawyers, Daryin was able to overturn the Sobino Court's ruling on the property share valuation in January 1997. The Vladimir court remanded the case back to the *raion* court for re-hearing. After another ten months of negotiation and court action, Daryin and the AOZT were able to reach an agreement regarding distribution of the property share that included adding Daryin to the list of enterprise shareholders as a legal successor.

Meanwhile, the January 1997 appeals court had also ruled that because the AOZT Vorshanskoye was on the list of specialized agricultural enterprises, no shareholder at the AOZT, including Daryin, could receive their land share in kind. Prevented from claiming his

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land share in kind, Daryin filed suit to obtain compensation from the AOZT for unlawful use of the land share since 1996, when Daryin had originally applied to join the enterprise as a legal heir and to lease his land share to the collective. In January 1998, after being entered into the list of AOZT shareholders, he again applied to the enterprise to conclude a lease agreement for use of his land shares. On advice of Center lawyers, Daryin obtained a written response, where the AOZT asserted that it was not currently cultivating all land on the territory of the enterprise, and therefore it would not conclude a lease contract with Daryin.

During a series of court hearings in 1998, the issue “became political”, as the Director of the Vladimir Center described it. The Sobino *Raion* administration joined the leadership of AOZT Vorshanskoye in opposing Daryin’s bid. Court hearings were postponed and delayed with little or no notice, often because either court personnel or the legal representative of Vorshanskoye were not available. The Center and Daryin also successfully fought off requests by the court to provide it with a detailed audit of the income and yields received by the AOZT, so that the amount that the farm benefited from illegal use of Daryin’s land share could be measured precisely. The audit itself would have cost 20,000 in newly denominated rubles (\$3,500), far beyond the value of the land share and ridiculously beyond Mr. Daryin’s means. Center lawyers successfully convinced the court that harvest and income data from the state statistical agency would suffice for calculating the value of the land share.

Finally, in October 1998, more than two years after Daryin came to the Center for an initial consultation, the Sobino *Raion* court announced its ruling. The court found that AOZT Vorshanskoye had unlawfully used Mr. Daryin’s land share without entering into a land share lease agreement, and therefore Daryin was entitled to be paid the amount stipulated in the lease contracts that the AOZT had concluded with other land share owners. The court ordered that Mr. Daryin should be paid 900 rubles total for the years 1996 and 1997, or 450 rubles per year. Although the amount recovered equated to only about \$45 in the aftermath of the August 1998 financial crisis, the principle established is potentially of utmost importance for land share owners throughout Vladimir. By ruling that a farm cannot refuse to enter lease contracts with some of its shareholders because part of its territory is not being cultivated, the court established on a fundamental level that farms that flout land reform legislation will be held accountable by the judicial system.

If the Sobino court’s ruling were to be widely repeated throughout Vladimir, large enterprises would be given the legal impetus to either enter lease contracts with all their land share owners or to divest themselves of unused land by allocating it to land share owners in kind. This incentive would be even greater if the financial penalties for unlawful use were to be greater than simply the common lease payment. Center lawyers, together with Mr. Daryin, argued that damages should properly be calculated by the benefit to Vorshanskoye from using the land share, rather than the losses to Daryin because he was deprived of rental income. It remains to be seen whether this argument will prevail in the future.

By the time that the court entered its ruling, Mr. Daryin had been pursuing his claims against AOZT Vorshanskoye in court for two and a half years. The persistence, tolerance for adversity, and willingness to make enemies that playing the lead role in such a saga requires

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is extremely rare in rural Vladimir. “Mr. Daryin is a unique individual,” notes the Center’s director. New law in any society, however, is most often catalyzed by the persistence of single-minded individuals unwaveringly sure that they are right. It is a positive sign for development of rule-of-law in Vladimir that at least one such individual exists, and that a *raion* court was willing to rule in his favor despite the opposition of both the *raion* administration and the enterprise.

### Mr. Utkhin and Mrs. Shinaeva (Vladimir Oblast)

This couple lives with their three children in a wooden house that they built themselves on top of a potato shed. They received the potato shed as their property share when they left the former collective farm in 1993 to become private farmers. Utkhin also received his land share of 4.5 hectares in kind, and the couple added 10 hectares in ownership from the *raion* administration. They also currently rent an additional 3 hectares from the rural land fund. The couple grows mostly potatoes, plus a few hectares of cabbage and carrots. Utkhin reports that they grew five times more spring potatoes per hectare last year than the neighboring large enterprise, mostly because the workers next door are a “bunch of drunks”; those workers apparently planted late and harvested late, and lost many potatoes due to frost. Utkhin sells a large portion of his harvest in cash to middlemen who come directly to his farm with trucks. Although the price he receives is about a third lower than the price he receives from vegetable shops in town, when he subtracts transportation expenses and potential difficulties with the taxation authorities, it works out to be about the same. In addition, shops only buy about 500 kilograms of potatoes at a time, while a middleman in a truck will haul off 10 tons at once.

Utkhin and Shinaeva, like many Russian farm couples, divide responsibilities in the family business. While Utkhin is in charge of fieldwork and marketing, Shinaeva keeps the books, and when the couple experienced legal troubles, it fell on her shoulders to deal with them. The difficulties stemmed from a new director on the neighboring large enterprise (limited liability partnership (TOO) “Opoliye”), who took over a couple of years after Shinaeva and Utkhin became private farmers. Not happy with the way the farm had been reorganized, the new director apparently decided that she wanted the land where Utkhin and Shinaeva’s house and potato shed now stood. First, the director claimed that Shinaeva and Utkhin did not own the land on which their house stood, and therefore they could not live there. When the local land committee intervened to say that this was not the case, the director asserted that the land under the shed might be Shinaeva’s, but none of the other land around it was. She then revoked Shinaeva and Utkhin’s right to go across enterprise land to reach their property. The land committee again stepped in. The director of TOO Opoliye next asserted that they were entitled only to a narrow border of two meters of land around the potato shed, and an access road. Shinaeva and Utkhin did not vacate the land around their house, however, because they believed that this land was their household plot that had been allocated when they left the collective farm.

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The dispute came to a head when Shinaeva and Utkhin completed work on their house. Shinaeva applied to the Vladimir electricity company for the house to be connected to the electricity line. This permission was granted. However, because the local transmission wires were located on the property of TOO Opoliye and the lines were listed among its assets, Shinaeva had to apply to the enterprise director to ask them to connect her house. The director declined, asserting that Shinaeva did not own the land around the house and the house had been constructed without the appropriate sanitary, architectural, and other building permits. When Shinaeva and Utkhin connected their house anyway, the director promptly cut down their lines.

Although Shinaeva did not want to go to court, it became clear that they would have to receive a court order to get the electricity installed. Shinaeva appealed to the local procurator, who was sympathetic to their situation and filed the proper paperwork for a court injunction. This court order was canceled by the *oblast* appeals court, which ruled that the lower court had not properly taken into account all of the important circumstances, particularly the question of ownership of Shinaeva's house. The *oblast* appeals judge sent the issue back to the *raion* for reconsideration of the case. Shinaeva asserts that the director, who is rather prominent politically and a deputy at the *raion* council, was able to use the fact that many people fear her to threaten the court into overturning the order.

Tired of "dancing around the administration building" fruitlessly, Shinaeva and Utkhin went to the local office of Russia's national private farmer organization, which referred them on to the Center. Center lawyers represented Shinaeva at the rehearing of the case in local court, and then upon appeal to the *oblast* court. The Center argued on behalf of Shinaeva that according to the Russian Civil Code, the issue of ownership of the house and land was immaterial to whether Shinaeva had a right to be connected to the electricity grid. Connection depended only upon the electric utility judging that there was sufficient capacity and technical capability to supply the electricity. Both the lower court and the appeals court agreed with this analysis, and Shinaeva received her court order. At the point that the *oblast* court entered its verdict, TOO Opoliye was obligated to connect their power lines, which the TOO grudgingly did.

Utkhin and Shinaeva's story ties together several themes that run constantly through the Center's work in Vladimir. First, incomplete privatization and lack of clarity about land and property rights has created doubts about who owns which assets that allows disputes like this to take place. Here, a dispute about land led to a dispute about the ownership of the house built on top of this land, which led to a dispute over TOO Opoliye's right to assert control over access to electric wires. These wires were conduits for a public utility – electricity. But the farm could attempt to assert control over where this electricity went because it was able to show that the physical poles and wires transporting the electricity it were on the list of physical assets that had been privatized to the farm. Added to this confusion was TOO Opoliye's refusal to accept the land committee's decision as the final word on its claim to Shinaeva's house and land. The TOO's director therefore was able to convince one court that ownership of the house was still in dispute, muddying the question of whether Shinaeva and Utkhin were entitled to electricity. Whose rights trump whose in such

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a situation, and which questions need to be resolved first? In the West, the mechanisms and sequences for adjudicating complicated disputes involving property, utilities, building codes, and the like are resolved using time-honored, well-established rules. When all rules are new and many are opaque, as they are in Vladimir, the conditions favor those with political and economic power to get what they want.

Second, neither Utkhin and Shinaeva nor TOO Opoliye qualify as completely law-abiding citizens in this scenario. It is clear that the director of Opoliye improperly used her leverage within the community and her position of power over enterprise assets in an attempt to bully Shinaeva and Utkhin to give up their claim to the land surrounding their potato shed. However, it also seems that Shinaeva may have constructed a house without initially receiving the proper building permits, that they claimed land around the potato shed but they did not initially receive the documentation for the land, and that their position with respect to payment of taxes is at the very least dubious. Each of Shinaeva and Utkhin's actions is understandable, and in the context not particularly malicious. Building permits are often arbitrary, arduously slow to receive, and may require bribes. In addition, it seems that the initial privatization process on their farm was handled in a slipshod fashion, and Shinaeva and Utkhin took possession of the land offered to them without realizing that their documentation was incomplete. Finally, the burden of taxes on private farmers is so onerous that to be honest with the tax police is tantamount to volunteering to go out of business. Ultimately, however, every actor in the system – whether they are among the elite or barely scraping by – often has more incentive to ignore the law than to abide by it. As a result, true rule of law is still far from being achieved.

Finally, because the law creates ambiguity regarding peoples' respective rights, and those laws that do exist are often not respected, many people do not view the state judicial system as the best option for resolving disputes or protecting one's property. In the case of Utkhin and Shinaeva, the Vladimir Center offered a well-appreciated alternative to going to "gangsters" for help in getting electricity for their house. Utkhin put it succinctly: "Without the government to help, where else can you turn?" The potential disruption posed by this prospect is accentuated because law actually existed on the books that the Center was able to find and use to resolve the dispute in a fair, rule-based manner (once again the courts were, ultimately, responsive). The case thus provides a micro-level glimpse into the Russian economy as a whole. Not only do insufficient rules exist to properly govern behavior, allocate resources, and resolve disputes in the market economy; but even when laws do exist, the government often does not have the wherewithal to enforce these laws consistently and fairly, leading to the growth of an economy where businessmen must rely on criminals to protect their assets.

### Mr. Romanov (Vladimir Oblast)

Mr. Romanov's case warrants discussion because it illustrates a further major issue: the vulnerability of farmers to arbitrary action by government agencies. Mr. Romanov owns 10 hectares of land that he received from the *raion* land fund when he registered as a private

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farmer in 1990. For many years he rented an additional 40 hectares from the fund, but had to give it up because of heavy losses and a lack of money for fuel and seeds to farm it properly. In 1997, he had a very big harvest of both spring and winter wheat, but prices were so low that most of the grain remained in storage. As a result, he tried to farm barley in 1998, which also brought mediocre results. So in 1999, he made the decision to plow potatoes, and drastically cut back the amount of land that he cultivates. Romanov has thus followed the pattern very common in Vladimir: unable to sell grains profitably, he has scaled back his operation and planted potatoes, which grow well in the Vladimir soil and bring a reasonable profit in the marketplace.

Despite the small scale of his operations, Romanov was inexplicably chosen by the government's Medical Insurance Fund as a test case for trying to extract unpaid taxes from private farmers. The suit was based on a somewhat arcane distinction between types of private farms that arose once Russia's new Civil Code came into force in 1995. Those like Mr. Romanov, who registered his private farm before this date, had a questionable legal status. According to the Civil Code, all private farms are individual entrepreneurs acting without establishing a legal entity. However, when Mr. Romanov established his farm, he registered as a legal entity. The distinction had important tax ramifications for the Medical Insurance Fund, and it therefore filed suit against Romanov for 12 million rubles (about \$2,500) of unpaid taxes to the fund. In a panic, Romanov came to the Center for help. The Center helped him prove, in Vladimir arbitration court, that he legally held the status of an individual entrepreneur, and therefore his unpaid tax obligations, including penalties for late payment, amounted to only 3 million rubles. The Center successfully defended this ruling at the regional arbitration court in Nizhny Novgorod (covering a multi-*oblast* region), and the Medical Insurance Fund apparently did not file any more lawsuits against other private farmers for unpaid taxes.

Besides representing a clear Center success story in which Center attorneys were able to establish a precedent that discouraged further punitive action on the part of a government agency (potentially saving large numbers of private farmers from bankruptcy), this case illustrates clearly how murky legal distinctions can make private farmers vulnerable to arbitrary government action. If Romanov had not had access to a lawyer with a good understanding of the law of private farming, he likely would have had to pay the full 12 million rubles, probably ending his career as a private farmer. The uncertainty over whether farmers are individual entrepreneurs or legal entities under the law remains, and a number of legal decisions have come down on both sides of the issue. It is unlikely to be definitively resolved until a new law on private farms is enacted.

## Village of Androsovka (Samara Oblast)

The village of Androsovka is located in Krasnoarmeisky (Red Army) *raion*, approximately 150 kilometers south of the city of Samara in the middle of the steppe. The village has experienced hard times during the past decade, due to very unpredictable harvests (up to 60 percent of the planted crop was lost to drought in 1998) and the cessation of government

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funds that through 1989 had kept the *raion*'s agricultural producers afloat during hard times. In 1992, 10 private farms were formed in Androsovka. Since that time, nine have failed, many in the first two years after startup because they delivered their grain to elevators that did not pay until rapid inflation had effectively rendered the sums owed worthless. In the *raion* as a whole, private farms have declined from a peak of 120 in 1993 to 61 at the end of 1998.

Given this rather discouraging track record for private farming in the *raion*, Androsovka is perhaps an unlikely place for a group of rural citizens to go to court in order to start their own private farm. This occurred in 1998, a year in which the un-reorganized collective farm (CF) to which they belonged failed to pay wages or land share lease payments. The enterprise, CF Kalinin, had in fact leased much of its land to a neighboring joint-stock company (a large reorganized farm enterprise) that was founded by former officials of CF Kalinin. In this manner, the directors' new, reorganized farm, in collusion with the remaining leadership of CF Kalinin, freed itself from the need to support Kalinin's many retirees and other land share owners. It evidently made use of whatever of Kalinin's resources that it wished, however, including land. This new arrangement was unpalatable for a group of 27 land share owners and employees, who decided to obtain their land shares "in kind" and either lease them to another neighboring enterprise, CF Ulianov, where they had friends, or start their own private farm using equipment leased from CF Ulianov.

In order to allocate land shares in kind, a quorum of land share holders of CF Kalinin needed to attend a meeting and vote on their allocation. At the meeting of share holders, the 27 clients were allocated land in six different locations on the vast territory (4,000 hectares) of the enterprise. Following the legal procedure recommended by the local land committee, meeting participants drew lines around the fields to be allotted "in kind" to the clients, and this map was signed by participants at the meeting and a representative of the land committee. The map, when completed, resembled a pepperoni pizza – with area formed by the vaguely oval shape of the farm's outer boundaries pockmarked with six, small outlined fields. Only one of these fields was within two miles of CF Ulianov, and none were close enough to each other to have any realistic hope of combining assets to begin a joint private farm.

Frustrated, a representative of the 27 named Valentina Kusaeva, who had been an agronomist on CF Kalinin, called the Center to ask for advice. An attorney drove out to the farm to meet with the clients and with the director of CF Kalinin, who had been instrumental in the allocation of land plots on the field. They also met with representatives from the *raion* administration, who agreed to look into the problem. On reflection, however, the *raion* land committee and other local administrators decided that it would not intervene in the dispute, offering the opinion that because the meeting of shareholders was the supreme management body of the farm, their decisions reflect the best interest of the parties involved. If the land committee were to intervene on behalf of this group, who is to say there wouldn't be many more such groups in the future? Several officials in the *raion* administration are also close friends with the Director of CF Kalinin.

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Rebuffed in its efforts to broker a deal with the local administration, a tactic that has served the Samara Center well in a number of other occasions, the Center decided to file a claim in the Krasnoarmeisky *Raion* court for “indivisible”, compact allocation of the clients’ land shares. In order to do this, the clients had to declare their intention to form a single private farm, because otherwise the court could treat them as 27 different land share owners that just happened to be leaving the farm at the same time. Two land share owners, both pensioners, dropped out at this point, unwilling to take the risk of losing the remnants of their support network at Kalinin to take a chance on forming a private farm.

The Center’s first tactic, in a court hearing in July, 1988 was to show that the CF Kalinin had in fact made its decisions on the allocation of land “in kind” in the absence of a quorum, nullifying this decision. This step was necessary to allay the misgivings of the judge, who was unwilling to overturn an official decision of the shareholders’ meeting, signed by all present, including some of the applicants. The Center also gathered what evidence it could to show that the neighboring joint stock enterprise had been illegally formed, improperly stranding the clients and many other land share owners on CF Kalinin. The judge, although agreeing with the first point, was at a loss as to how to handle the situation. In August, he ordered CF Kalinin to have another meeting, this time with a quorum, to see if an acceptable agreement could be reached. He also instructed the administration of CF Kalinin to allow a lawyer from the Samara Center to be present, to make sure that the proper procedures were followed.

The meeting was not held by the deadline set by the judge of November 15, 1998, evidently because the enterprise leadership wanted to complete the harvest before any land was allocated. Because of this, the court fined the director of CF Kalinin, and ordered another meeting to take place by mid-December. When the meeting at last took place, the director explained to CF Kalinin’s shareholders that if the 25 clients were to receive land in a single, compact land plot, then a whole brigade of collective farm workers would lose their jobs. Although the assertion was ludicrous, as CF Kalinin wasn’t farming most of its land anyway, it rang true for the great majority of shareholders, who perhaps feared the collapse of the enterprise which had provided work, shelter, and social structure for their entire lives. The director then declared that the Center attorney should not be allowed to speak because the shareholders’ meeting was not a court of law. The assembly voted for this rule to be adopted as well.

Finally, in January, 1999, nearly one year after the 27 (now 25) land share owners first attempted to gain their land shares “in kind,” the *raion* judge ruled that CF Kalinin must “allocate a single tract of land for setting up a private farm.” The court order stopped short of ordering the land to be allocated nearer to CF Ulianov, from which the clients hoped to lease equipment. The judge also refrained from making any recommendations as to where the contiguous plot should be located, referring this question, which he found impossible to solve using legal principles, back to the shareholders’ meeting.

This case demonstrates several themes in Russian land reform. Without a local land committee willing to take an active role in the particular dispute, current rules regarding land shares are very difficult for courts to apply in practice. Specific legal rules regarding land

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allocation are limited to a mandate to give land “compact in location.” At most, a judge may operate as an arbiter of fairness in a particular dispute. However, judges do not have the expertise to ascertain the quality or other characteristics of a particular plot of land sufficiently to have a good feel for what might be fair to both sides in any given situation. Also, farm directors can wield great influence over the members and the “general meeting,” given the habits and fears of a largely elderly population that has spent its whole existence on the collective, even when those directors may be engaged in flagrant collusion and self-dealing.

### The Vandyshev and Ilyasov families (Samara Oblast)

The Vandyshev and Ilyasov families are relatives, and live in the village of Aleksandrovka in Samara *Oblast*. The two families left the “Pravda” collective farm in 1998 to start a private farm. Exercising their rights under Russian law, they claimed land parcels from the collective’s land base comprising approximately 50 hectares, plus their share of machinery, equipment, and buildings (property share).

The Pravda managers resisted the families’ initiative, and allocated dispersed parcels of poor farmland located far away from their village, and grossly undervalued their property share by using 1992 ruble amounts that have since been drastically devalued. The Pravda managers allocated the families a dilapidated sheep barn appraised at 6,170 rubles, instead of property worth 61,700 rubles as the families had claimed

The two families came to the Samara legal aid Center for help. On the land issue, an appeal was prepared to the *oblast* administration contending that the two families should be allocated one contiguous parcel of land, with that parcel being of average quality. The *oblast* administration agreed, and the Pravda managers did comply.

On the property share issue, the Pravda managers refused to properly value the property shares in accordance with the law, so the Ilyasov and Vandyshev families, with the assistance of the Center, filed a claim in the court system. After several hearings the local court sided with the families, and ordered the Pravda farm to pay the families the full amount of their property share, either in money or in kind. The Pravda farm has appealed the ruling, and the appeals court has not yet reviewed the case.

With the help of the legal aid Center, the Vandyshev and Ilyasov families now cultivate winter wheat, spring wheat, sunflower, and barley on 180 hectares. Fifty of the hectares they own, and the rest has been leased from pensioner land share owners, who are receiving much higher rent from the Vandyshev and Ilyasov families than they would have from the Pravda farm. Thus, the Center’s assistance not only helped the two families, but enabled those families to lease land from rural pensioners, thus helping these pensioners supplement their meager monthly pensions with a significant and relatively stable additional income source.

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## IX. CONCLUSION

As can be seen in this report, the legal aid Centers in Vladimir and Samara *Oblasts* have had a substantial impact on a wide variety of issues related to Russia's rural sector. At the core of the Centers' impact, of course, has been the help they have provided to individual rural citizens who are trying to make a living in a very difficult economic environment. This help boils down to people being able to use their legal rights as the law envisions, rather than being subject to the economic or political clout of collective farm managers and other opposing forces. Hopefully this report will be useful not only for specialists and students of land reform in Russia, but for those who are considering establishing similar Centers in other countries and parts of the world.

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